

550844  
XXXXXX

550891

PRELIMINARY ASSESSMENT

ORBITRON INDUSTRIES, INC.

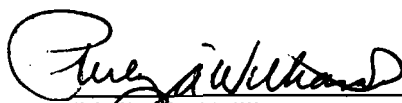
DELPHOS, OHIO

U.S. EPA ID # OHD 982 220 626

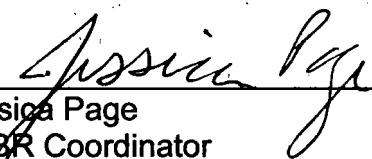
March 23, 2006

Ohio Environmental Protection Agency  
Division of Emergency and Remedial Response

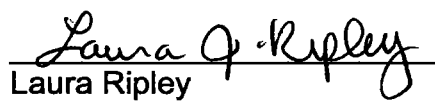
Prepared by:

  
Philip A. Williams  
Site Coordinator  
Northwest District OfficeDate: 03/27/2006

Reviewed by:

  
Jessica Page  
SABR CoordinatorDate: 3/29/06

Approved by:

  
Laura Ripley  
Division of Superfund  
U.S. Environmental Protection AgencyDate: 05/24/2006

Site: **Orbitron Industries, Inc., a.k.a. Bobick, Inc.**  
905 South Main Street  
Delphos, Ohio 45833

Date: March 23, 2006

CERCLIS ID: OHD 982 220 626

## **1. INTRODUCTION**

Under the authority of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and the Superfund Amendments and Reauthorization Act of 1986 (SARA), the Ohio Environmental Protection Agency (Ohio EPA), Division of Emergency and Remedial Response (DERR) conducted a federal Site Reassessment at the Orbitron Industries, Inc., a.k.a. Bobick Inc., ("Site") in Delphos, Ohio. The purpose of this preliminary assessment was to evaluate any information that became available since the initial removal assessment was conducted in 1994, and to assess current site conditions. This information will then be used to assess the threat posed to human health and the environment and to determine the need for additional CERCLA/SARA or other appropriate action. The scope of the investigation included review of available file information, a comprehensive target survey, and a site reconnaissance.

Based on a 1994 Ohio EPA emergency response to leaking drums (Attachment A), a previous U.S. EPA site assessment, performed by Ecology and Environmental, Inc. (E&E), was conducted at the site (Attachment B). This assessment was tasked by U.S. EPA under a Technical Directive Document. As a result of the assessment, a U.S. EPA Administrative Order by Consent was issued to conduct a time critical removal, dated September 20, 1994 (Attachment C). Also included in this evaluation is an U.S. EPA Action of Memorandum, dated August 17, 1994, two pollution reports (POLREPs), and a final "draft" removal assessment report completed by E&E (Attachment D). These documents provide a chronology of events which portray a time critical removal action undertaken by the U.S. EPA at the site. Additionally, Administrative Orders by Consent were issued in 1998 requiring Bobick to properly close areas of the site under the RCRA program (Attachment E). Currently, jurisdiction for the site seems to fall under RCRA rather than CERCLA authorities.

## **2. SITE DESCRIPTION, HISTORY, AND WASTE CHARACTERISTICS**

### **2.1 Site Description**

For a description of the site prior to and immediately following the 1994 removal action refer to Attachment B, 1994 E&E Site Assessment Report.

The site was for sale and remained idle from after the removal action until it was sold in 1999; therefore no descriptive changes were noted to occur during that time frame.

The Orbitron property was sold at a sheriff's sale in February, 1999 to Ulms Inc., a mobile home dealer. After Ulms Inc. purchased the property, several of the buildings were demolished, namely, buildings number P.B. 3, P.B. 4, BLDG 12, BLDG 13, BLDG 14 and a portion of building number BLDG 2 between building number 1 and 6 (refer to the site features map, figure 2, in the 1994 E&E Site Assessment Report, attachment B). The demolition debris were either recycled or hauled to ELOM C&D Landfill in Allen County. Ulms Inc. currently leases the remaining buildings and property to Troyer Trucking. Troyer Trucking uses the buildings to warehouse various plastic compounds.

At the time of the inspection on February 14, 2006, snow cover prevented a determination of whether any spills or stressed vegetation existed at the facility. Various building and equipment debris were noted around the facility; however, nothing appeared to be considered hazardous or immediately threatening.

## 2.2 Site History

The site history provided in this site reassessment report will be a continuation of the 1994 E&E Site Assessment Report and the U.S. EPA POLREPs.

Following the 1995 removal action inspection, the Ohio EPA Northwest District Office (NWDO), Division of Hazardous Waste Management (DHWM) requested the Ohio Attorney General to file suit against Bobick Inc., a.k.a. Orbitron Industries, Inc., for ongoing violations of Ohio's hazardous waste laws (refer to attachment E).

Several written communications occurred between the Ohio Attorney General's office and Bobick, Inc. regarding an acceptable consent order amenable to both parties. A Final Consent Order and Final Judgment Entry was filed on September 25, 1998 (attachment E). In the Consent Order, Bobick Inc. was ordered to determine the full extent of hazardous waste contamination in soil, and in ground water, if ground water is encountered, for all areas where hazardous wastes were stored or disposed of. After 30 days from the effective date of the Consent Order, Bobick, Inc. was to prepare and submit to the Ohio EPA, a Sampling and Analysis Plan (SAP). Bobick, Inc. never submitted an approved SAP to the DHWM. It was not until conducting this site reassessment evaluation that the DHWM was aware that Bobick, Inc. never fulfilled its obligation to the Consent Order. The DHWM

is presently reviewing Bobick, Inc.'s obligations and determining what action should be taken.

On June 22, 1999 an abbreviated preliminary assessment checklist (attachment F), was completed by the Ohio EPA, DERR, NWDO. The assessment checklist noted that the DHWM maintained jurisdiction over the facility and was pursuing enforcement action. The facility was noted to be under DHWM orders for enforcement action.

## **2.3 Waste Characteristics**

According to the 1994 E&E Site Assessment Report, the Technical Assessment Team (TAT) identified various wastes throughout the former Orbitron facility. These wastes included; caustic liquids, sodium nitrate, chromium oxide, methylethyl ketone (MEK), isopropyl alcohol, xylene, roof coatings, waste oil, isopropanol, anhydrous, drums labeled "FLAMMABLE" and drums labeled "CORROSIVE". All sampling during this investigation encompassed drum contents; no environmental media were sampled.

According to the U.S. EPA removal action initiated on October 13, 1994, all waste steams and spills were removed and cleaned up. In all, the U.S. EPA removed 50 drums of flammable liquids and sludge, 35 drums of oil and water, 1 drum of sodium nitrate, 5 containers of corrosive liquids and 60 drums of waste PVC compound. Final disposal of these wastes occurred on February 6, 1995.

## **3. SAMPLING**

It was determined that sampling was not necessary for the purpose of this site reassessment, mainly because the defined areas of concern are being addressed through a RCRA hazardous waste closure order. The Ohio EPA Division of Hazardous Waste Management (DHWM) is presently reviewing Bobick, Inc.'s obligations according to the previously referred to consent order, and determining what appropriate action should be taken. Information generated from the closure may provide further insight into whether or not any other site-wide sampling might be necessary.

## **4. CURRENT SITE STATUS**

Current site conditions are based on a review of Ohio EPA files, including current DHWM files, and a site visit conducted by Philip Williams, DERR, NWDO, on



February 14, 2006. Photographs taken during the site visit can be found in appendix A.

As previously stated, the Orbitron property was sold at a sheriff's sale in February, 1999 to Ulms Inc. After Ulms purchase of the property several of the buildings were demolished. The demolition debris were either recycled or hauled to ELOM C&D Landfill in Allen County. Ulms leases the existing buildings and property to Troyer Trucking. Troyer Trucking uses the buildings to warehouse various plastic compounds.

At the time of the inspection on February 14, 2006, it could not be determined if any spills or stressed vegetation existed at the facility. Various building and equipment debris were noted around the facility; however, nothing appeared to be considered hazardous or immediately threatening.

Presently, the DHWM is reviewing the Consent Order and Final Judgment Entry filed on September 25, 1998, against Bobick, Inc. to determine what action will be taken by DHWM to fulfill the requirements of this Consent Order.

## **5. Pathway Analysis**

**Air:** The Ohio EPA has is not aware of any documentation or allegations of contaminants released to the air from Orbitron Industries, Inc. or Bobick, Inc.. The Ohio EPA Division of Air Pollution Control does not have any files under either of the facility names. The Ohio EPA is not aware of any complaints from local residents regarding air quality.

**Ground Water:** A review of the Ohio Department of Natural Resources (ODNR) Division of Water online database of water well logs did not indicate the presence of any water supply wells located within an approximate one half mile radius of the site. Further review of the Ohio EPA, DDAGW files revealed that the south well field for the City of Delphos is located within 500 feet of the site. In particular, well #7 is located within approximately 300 feet of the site, in an easterly direction. No log is available for well #7, and the length of surface casing is unknown. Wells #6 and #8 are also part of the south well field for the City of Delphos. A log is available for Well #8, and the top of bedrock is only 14 feet below the surface at this location (Attachment G).

Some hydrogeologic information is available in the DDAGW files, as some studies were apparently done for the City of Delphos by Eagon and Associates. Reportedly, there are two distinct water bearing zones, one shallow, and one deep. The shallow zone is present within 30 feet of the surface. Also, Toltest, Inc. completed some test borings in May, 1993 for a proposed new well a the south wellfield, and ground water was encountered in the test borings at depths as shallow as 4 to 13 feet.

Given the shallow water table, and the documented releases from the Orbitron site, coupled with the possible use of 1,1,1-Trichloroethane and Freon solvents, DDAGW believes that there is a high probability for ground water contamination to exist under the site. The proximity of the municipal south well field to the property is also of concern, as any ground water contamination from the site would likely be drawn in by the radius of influence of the south well field. Orbitron is located at or near the edge of the one year time of travel for the south wellfield. The ground water 4 mile radius map and 15 mile target distance limit distance map are in Attachment H.

**Surface Water:** The Flat Fork Creek is the nearest body of surface water and is located approximately 1500 feet east of the from Orbitron Industries, Inc. property. Intervening terrain between the creek and other property and building structures would likely prevent any contamination from directly reaching the creek from the site. According to the Delphos Superintendent of Streets, site surface runoff that would drain to the streets abutting the property would be collected in the City's storm sewer which drains to Flat Fork Creek. In addition, the Superintendent was uncertain if the floor drains that might exist in the Orbitron building drain to the city storm sewer collection system.

Therefore, it is uncertain if potentially contaminated surface water runoff has impacted Flat Fork Creek. According to the DHWM consent order, the facility is to determine the extent of contamination. At this time, no evidence exists to suggest any impacts to surface waters has occurred.

**Soil:** During the Ohio EPA site visit, no evidence of any releases was observed. However, in the 1994 E&E Site Assessment Report, four 85-gallon overpacks and five 55-gallon steel 17-H drums containing the contaminated soil and debris from the June 6, 1994 spill were in pole building 1 (PB1). It is not known if the soils in these drums were sampled and analyzed. The only information available is in the Ohio EPA Emergency Response report (Attachment A), which states, "A black substance which had leaked out of the drums had migrated down gradient across a gravel/soil area, and appeared to have soaked into the ground." It is assumed that the facility's cleanup contractor remediated the stained gravel/soil in this area and placed the contaminated soils in these five drums. Neither the Ohio EPA Emergency Response report, nor does the 1994 E&E Site Assessment Report mention any other releases to the soils.

## **6. Site Summary**

The Orbitron Site Preliminary Assessment consisted mainly of evaluating the events that occurred around a U.S. EPA time critical removal action conducted in 1994. Although that removal was successful at removing numerous drums of contaminants, a proper closure according to RCRA requirements was not performed. This problem was addressed by the Ohio EPA Division of Hazardous Waste Management, in conjunction with the Ohio Attorney General, successfully

negotiating a consent order with Bobick Inc (Orbitron) to complete the closure of the defined hazardous waste storage areas. To date, compliance with this order is not complete, and the DHWM is considering further actions. These areas comprise the locations where present environmental concerns may exist. No other areas of concern have been identified at this time. It is believed that the successful implementation of the DHWM order will remedy any remaining environmental concerns. Should any further site assessment be required, it would likely be authorized under RCRA rather than CERCLA authorities.

## **7. Site Specific Maps**

The following maps are enclosed with this report:

1. All maps are included in the 1994 E&E Site Assessment Report, refer to attachment B.
2. 2 - Ground Water Four Mile Radius Map, Attachment H
3. 15 mile Target Distance Limit Map, Attachment H

# ATTACHMENT A

**Emergency Response Section - District Office Investigation Report (DOIR)**

Spill Id Number: 9406-02-2414

OSC: 1776 - GERBER, MIKE

Spill Status: FINAL

Date	Time
Reported: 06/02/1994	09:05
Discovered: 06/02/1994	08:00
Occurred: 00/00/0000	

Reported By: TOM TILSON

Title: N/A

Affiliation: ANY TWP TRUSTEE, MAYOR, GOVT OR

Telephone: (419) 227-3535

Extension:

**Spill Location Information**

County: ALLEN  
City/TWP: DELPHOS  
Location: 901 S MAIN ST  
Waterway: N/A  
Length: 0  
Land Area: 20ft. x 50ft. gravel area

Latitude: 40-.4-9..98 N

Longitude: 84-.2-0..36 W

**Entity Information**

Name/Company: ORBITRON PRODUCTS

Address: 901 S MAIN ST

City: DELPHOS

State: OH

Zip Code: 46545

Telephone: (219) 273-0055

Ext:

SPCC Plan Req: N

SPCC Plan in Effect: N

**Entity Representatives**

Name	Title	Phone	Extension
Frank Caprilla	Reality Agent	(419) 222-3040	
Troy Walker	Company Rep.	(219) 273-0055	
Troy Walker	Company Rep.	(219) 273-0055	
Frank Caprilla	Reality Agent	(419) 222-3040	

**Products Spilled**

Product	Amount	UOM	Type
DRUMS	27.0	ITM	O

Source: FIXED FACILITY - BUSINESS - OTHER  
Cause: UNKNOWN  
Reason: UNKNOWN REASONS  
Media Affected: OTHER AREA

**Other Contacts****Referrals**

Person	Agency Name	Referral Date
MaryAnn Alford	OHIO EPA HAZARDOUS WASTE MANAGEMEN	06/02/1994

**Emergency Response Section - District Office Investigation Report (DOIR)****Spill Id Number:** 9406-02-2414**OSC:** 1776 - GERBER, MIKE**Status:** FINAL**Activity Date:** 06/02/1994**Phone Followup:** NO

06/02/94 1040 hours- I met Chief Seavers (Delphos Fire Dept.; 419 222 5767) at the Orbitron Plant. The Plant has been vacant for approximately 8 months, and was being sold by Orbitron Industries (Tom Cooper, Pres.; 219 273

0055) through Yocum Realty (Frank Caprilla; 419 222 3040). The three 55 gallon drums which had lost their contents were located on the south side of the plant's main building adjacent to approximately 10 other 55 gallon drums

under a metal roof storage area. The black substance which had leaked out from the drums had migrated down gradient across a gravel/soil drive area, and appeared to have soaked into the ground. The Delphos Fire Dept. installed a earth dike around the spilled material to prevent further migration. I contacted Mr. Troy Walker (Orbitron Company Rep.) who stated that the waste materials from the old plant were going to be disposed of soon, and that Cousins Waste Control had sampled some of the drums located inside the plant, but he was not sure if the drums on the south side of the plants exterior had been sampled. I provided Mr. Walker with two local clean-up contractors, and he hired Interdyne (Chris Cotterill; Safety Rep.; 419 229 8192) to clean-up the spilled material from the three drums. While at the site, Chief Seavers showed Mr. Ed D'Amato (OEPA/SI) and myself around the plant site. Several drums were observed on the property (some which had leaked inside the plant), in addition to areas which contained asbestos, and other with flammable, oxidizing, and corrosive labels. There were four empty drums on the property which were marked radioactive. I checked these drums with the OEMA Rad meter and did not detect any radioactive in the area. In a small storage building on the west side of the main plant four drums of a black petroleum substance were located in addition to small containers labeled flammable. Before leaving the site, I met Mr. Cotterill, who stated that he would have crews out today to clean-up the spilled material. This incident has been referred to OEPA/DHWM for further action.





## Emergency Response Section - District Office Investigation Report (DOIR)

Spill Id Number: 9406-02-2414

OSC: 1776 - GERBER, MIKE

Response Date: 06/02/1994

Start Time: 09:30

End Time: 15:15

Total Mileage: 140

Time Code	Regular Time	Overtime	Total
0022	5.8	.0	5.8
Total Time:			5.8
Grand Total for this Spill:			5.8

## ATTACHMENT B



RECEIVED

JAN 30 2006

OHIO E.P.A.  
N.W.D.O.

**SITE ASSESSMENT REPORT  
FOR  
ORBITRON  
DELPHOS, ALLEN COUNTY, OHIO  
TDD: T05-9407-003  
PAN: EOH1042SAA  
DOCUMENT CONTROL NUMBER: TAT-05-23-04023**

**AUGUST 15, 1994**

Prepared for:

Gail Nabasny  
Deputy Project Officer  
Emergency Support Section  
U.S. EPA - Region V

Contract Number 68-WO-0037

Prepared by:

Reviewed by:

Approved by:

*[Signature]*  
*[Signature]*  
*[Signature]*

Date:

8/15/94

Date:

8/15/94

Date:

8-15-94



**ecology and environment, inc.**

6777 ENGLE ROAD, CLEVELAND, OHIO 44130, TEL. (216) 243-3330  
International Specialists in the Environment

## TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
1.0 INTRODUCTION.....	1
2.0 BACKGROUND.....	1
2.1 Site Description.....	1
2.2 Site History.....	4
3.0 SITE ACTIVITIES.....	5
3.1 Site Reconnaissance.....	5
3.2 Site Observations.....	5
3.3 Sampling Activities.....	9
4.0 ANALYTICAL RESULTS.....	11
5.0 DISCUSSION OF POTENTIAL THREATS.....	13
6.0 SUMMARY.....	14

## LIST OF FIGURES

<u>Figure</u>	<u>Page</u>
1 Site Location Map.....	2
2 Site Features Map.....	3
3 Drum Location Map.....	6
4 Sample Location Map.....	10

## LIST OF TABLES

<u>Table</u>	<u>Page</u>
1 Analytical Summary.....	12

## LIST OF APPENDICES

<u>Appendix</u>	<u>Page</u>
A SITE PHOTOGRAPHS.....	A-1
B ANALYTICAL RESULTS - ENVIROTEST, INC. ....	B-1

## 1.0 INTRODUCTION

The Ecology and Environment, Inc. (E & E) Technical Assistance Team (TAT) was tasked by the United States Environmental Protection Agency (U.S. EPA) under Technical Directive Document (TDD) T05-9407-003 to complete site assessment activities at the Orbitron Industries (Orbitron) site in Delphos, Allen County, Ohio. The site assessment included a site reconnaissance, sampling of drums, and an evaluation of the potential threat to human health and the environment. Additional TAT activities conducted under this TDD included the preparation of a site health and safety plan, air monitoring, and photo and video documentation of the site. Upon the request of U.S. EPA On-Scene Coordinator (OSC) Steve Renninger, the TAT conducted site assessment activities at the Orbitron site on July 19, 1994.

## 2.0 BACKGROUND

### 2.1 Site Description

The Orbitron site is located at 901 South Main Street in Delphos, Allen County, Ohio (Figure 1). The site consists of a 100,000 ft<sup>2</sup> main building, an oil house (building 13) of 1320 ft<sup>2</sup>, sheds of 2400 (building 12) and 3600 ft<sup>2</sup> (building 14), four pole barns, and a loading dock area (Figure 2). The main building is comprised of eleven smaller buildings (buildings 1-11 on Figure 2) which serve as production areas, tool rooms, and packaging areas as well as office and lounge space. Residences are located 50 feet to the north of the site. Local industries border the facility on the east and south perimeters. South Main Street and a large field border the facility on the west.

The city of Delphos is in the extreme northwestern corner of Marion Township, in the northwest corner of Allen County. The gentle topography in this area is the result of smooth-surfaced glacial ground moraine deposits of unsorted and unstratified clay, silt, and sand. Delphos is within the northeast-flowing Auglaize River drainage system. Delphos proper is situated on a narrow strandline of the former Lake Maumee, a precursor to the modern Lake Erie. The thickness of glacial deposits is approximately 50 feet, over a 160- to 400-foot thick unit of the Monroe formation dolomite (Lower Devonian Age). Several stone quarries in the area extract crushed rock from the Monroe formation.

The main building occupies the vast majority of the site property, with the remaining area covered with grass or asphalt. The east perimeter of the main building area is fenced with a 6-foot chain link and barbed wire fence. The gate to this area is padlocked to prevent easy access to this portion of the facility.

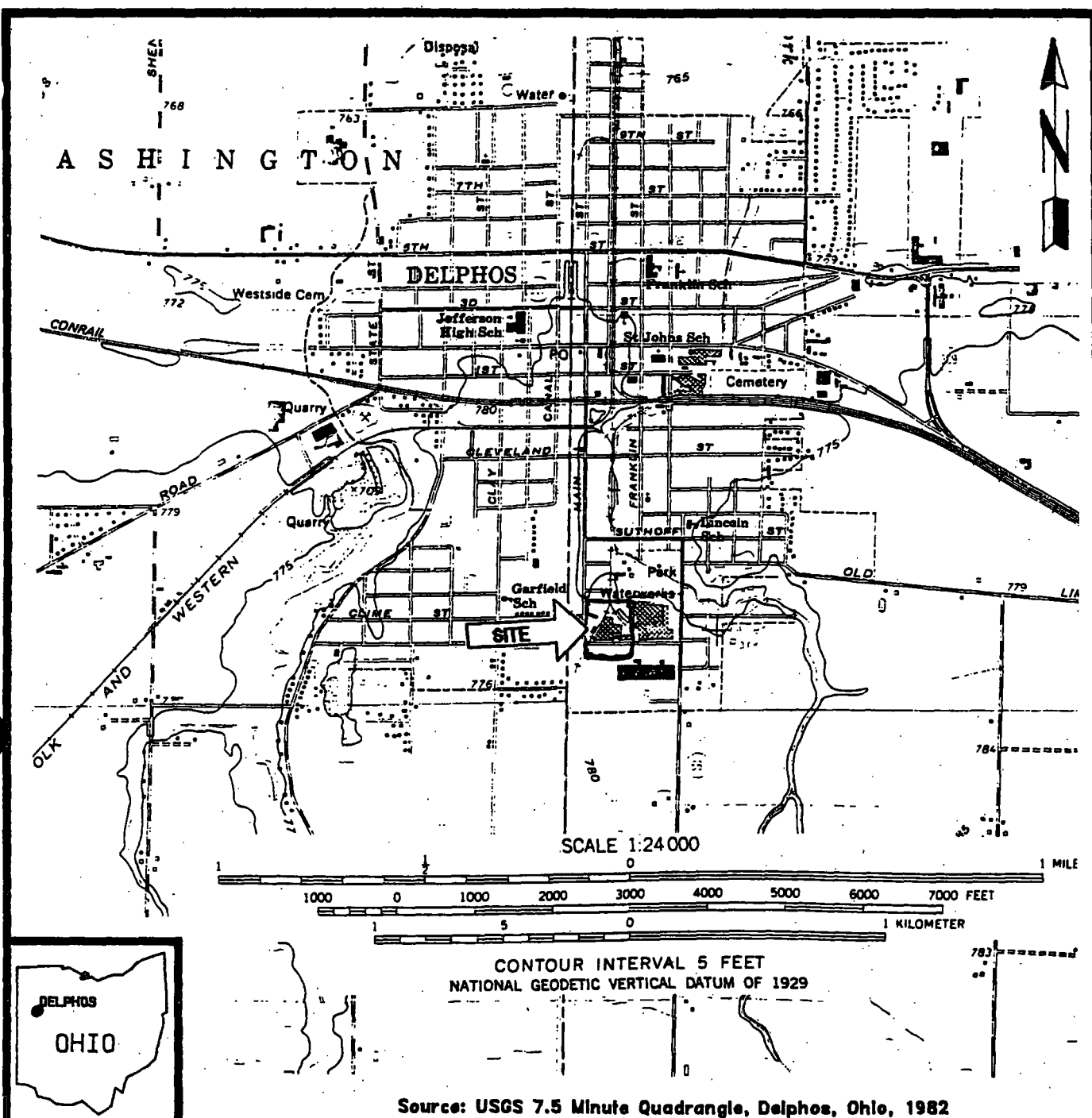


FIGURE 1  
SITE LOCATION MAP  
ORBITRON SITE  
DELPHOS, ALLEN COUNTY, OHIO



ecology  
&  
environment

DRAWN BY  
F. DACTLER

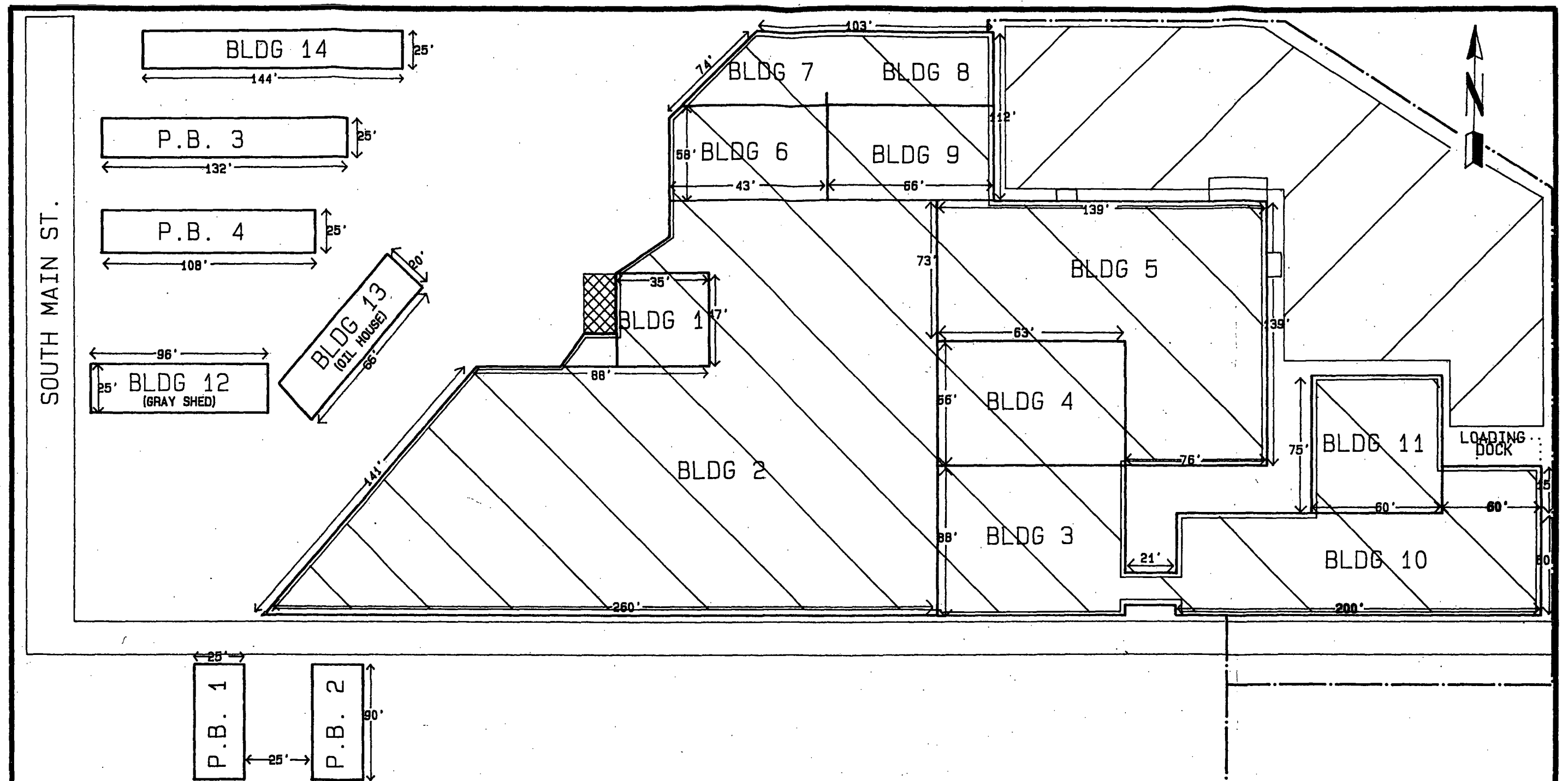
DATE  
07/22/94

PAN#  
EDH1042SAA

APPROVED BY  
A. BUSER

DATE  
07/22/94

TDD #  
T05-9407-003



### LEGEND

---	6' CHAIN LINK FENCE	BLDG	BUILDING
P.B.	POLE BARN	---	LOADING DOCK
///	ENCLOSED YARD		
///	MAIN BUILDING		
xxx	TRANSFORMER AREA		

**FIGURE 2**  
**SITE FEATURES MAP**  
**ORBITRON SITE**  
**DELPHOS, ALLEN COUNTY, OHIO**

NOT DRAWN TO SCALE



**ecology  
&  
environment**

**DRAWN BY**  
F. DACTLER

**DATE**  
07/22/94

**PAN #**  
EOH1042SAA

**APPROVED BY**  
A. BUSER

**DATE**  
07/22/94

**TDD #**  
T05-9407-003

## 2.2 Site History

Orbitron, a daughter plant of Orbitron Industries, Inc. of Mishawaka, Indiana, was a manufacturer of polyethylene (poly) drums and tanks until October of 1993. The property has since been for sale through Yocum Realty agent Frank Caprilla. The main building, sheds, and pole barns contain approximately 200 drums and containers. An inventory conducted by the Ohio EPA (OEPA) revealed drums with labels indicating the possible presence of flammable, reactive, and corrosive materials. Several of these drums were observed deteriorated, bulging and/or leaking their contents on to the ground.

On June 2, 1994, OSC Mike Gerber of the OEPA Northwest District Office (NWDO) met with Chief Seavers of the Delphos Fire Department (FD) at the Orbitron facility in response to leaking drums reported by the Allen County Emergency Management Department. Three 55-gallon drums containing an unknown black substance had leaked and migrated down gradient across a gravel/soil drive way on the south side of the facility. The Delphos FD installed an earthen dike around the spilled material to prevent further migration. OSC Gerber and Chief Seavers also observed areas on-site which contained asbestos and other containers labeled as flammable, oxidizing, and corrosive materials. Four empty drums marked radioactive were checked with the OEPA radiation meter and showed no readings over background levels.

That afternoon, OSC Gerber contacted Orbitron company representative Troy Walker who stated that the wastes at the old facility were going to be disposed of soon. He informed Gerber that Cousins Waste Control (Cousins) had already been contracted to arrange for this disposal and that Cousins sampled some of the drums located inside the plant. However, Walker was not sure if the drums on the south side of the facility had been sampled. Gerber provided Walker with the names of two clean-up contractors who could assist Orbitron in cleaning the contaminated area. Orbitron hired Interdyne Clean-up Services (Interdyne) to respond to the site immediately. Before leaving the site, OSC Gerber met with Chris Cotterill of Interdyne, who stated that he would have crews out that day to clean up the spilled material.

The spill was cleaned up and contaminated materials were put into 55- and 85-gallon overpack drums and left on-site. However, due to the large number of drums and containers still remaining on-site, the OEPA contacted the U.S. EPA and requested assistance with the investigation of site conditions. On July 7, 1994, the TAT was tasked by U.S. EPA OSC Steve Renninger to conduct a site assessment at the Orbitron site.

### 3.0 SITE ACTIVITIES

#### 3.1 Site Reconnaissance

On July 19, 1994, TAT members (TATMs) Frank Dachtler, Sylvia Wong, and Nazeer Uddin mobilized equipment and arrived at the Orbitron site at 0715 hours. Already present on-site were U.S. EPA OSC Steve Renninger; Jim Ottarson of the OEPA, NWDO; Frank Caprilla of Yocum Realty; Cousins representatives Shirley Fitch-Thorzynski and her associate.

U.S. EPA, OEPA, Cousins, and TAT personnel completed a walk through of the facility. TAT personnel conducted a site reconnaissance which included air monitoring using a Microtip 2000-HL photoionization detector (PID), a combustible gas indicator (CGI), and a Victoreen Thyac III radiation meter. No readings above background levels in the breathing zone were detected on any of the equipment during the site reconnaissance inspection. U.S. EPA, OEPA, and TAT personnel also completed a drum and container inventory, and videotaped and photographed site conditions during the reconnaissance inspection. Photographs of the site are included as Appendix A of this report.

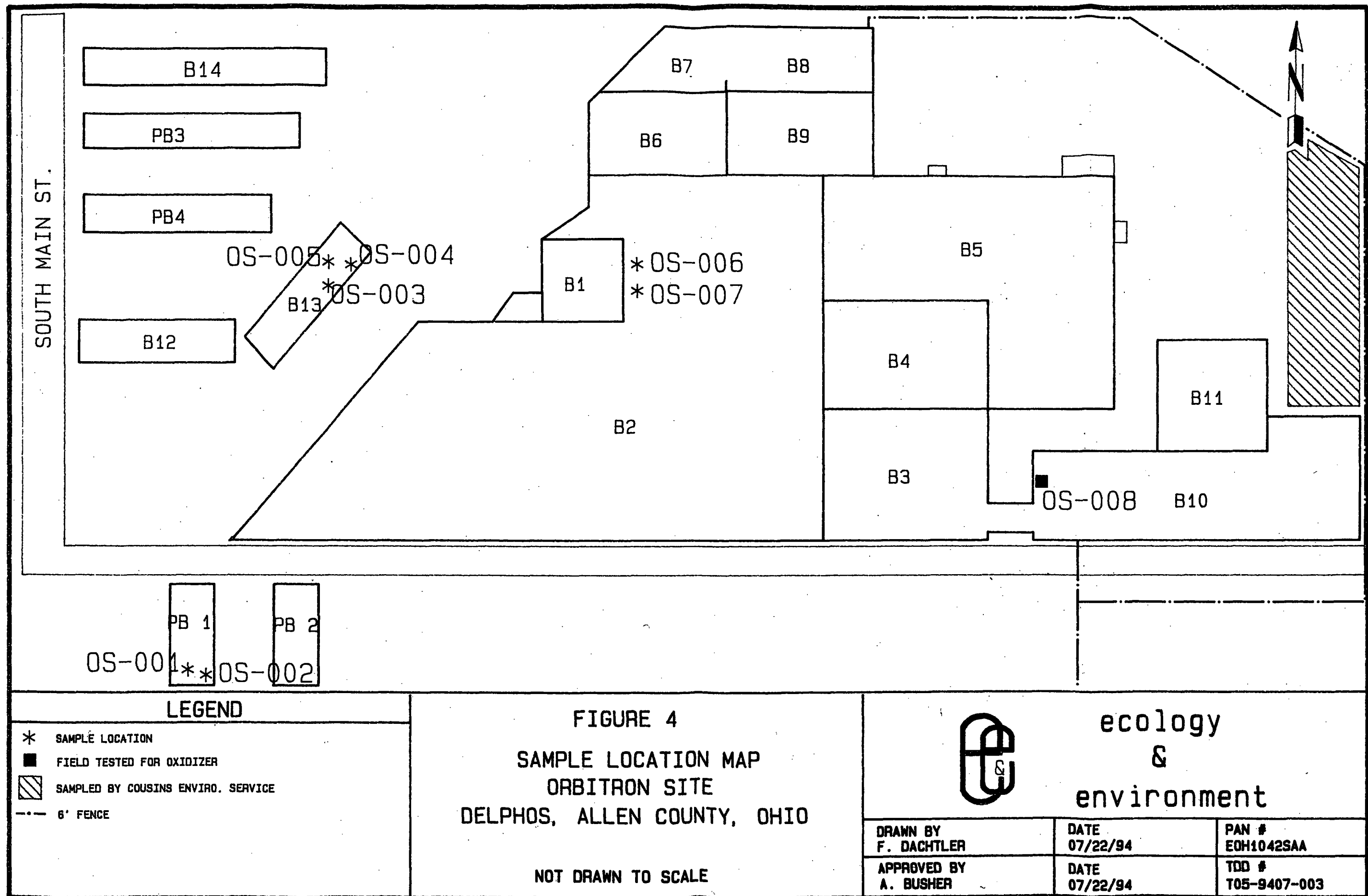
#### 3.2 Site Observations

The main complex of buildings is an approximately 100,000 ft<sup>2</sup> structure of brick, wood, and steel construction. The east portion of the site, which is adjacent to private residences, is the only portion of the site which is enclosed by a fence. Only a few of the facility doors are secured and several of the windows had been broken. The pole barns, oil house, sheds, and transformer areas border the west and south sides of the main building complex and are completely accessible. An outside area along the west side of building 1 contained four transformers in fair condition. The area was enclosed by a 6-foot picket fence.

Several 55-gallon drums were observed within the fenced areas, and in the pole barns and shed areas. Approximately two hundred full and one hundred and ten empty drums and containers were observed throughout the site. Drums in several areas of the building were observed to be leaking and/or bulging. Drum labels indicated the presence of incompatible materials in close proximity to each other. Acid containing drums were near base drums, and xylene containing materials near oxidizers. Figure 3 indicates approximate locations of drums and containers.

Pole barns: Four pole barns were located on-site. Pole barn 1 (PB1) contained approximately eighty-two full and 10 empty 55-gallon drums in 3 separate clusters (Figure 3). In the area





surrounding the location of the June 2, 1994, spill which was investigated by the Delphos FD. Four 85-gallon overpacks and five 55-gallon steel 17-H drums containing the contaminated soil and debris from the spill were among the drums inventoried at this location. The drums were stacked and were unstable. The area to the south of PB1 was cluttered with wood and metal debris, pieces of poly product, and heavy brush. Labels indicated the presence of: isopropyl alcohol, UN 1219; methylethyl ketone (MEK); roof coatings; and other materials labeled "FLAMMABLE". Hand written markings also indicated the presence of used MEK.

Pole barn 2 (PB2) contained 11 empty and 4 full 55-gallon steel drums. The area was scattered with debris much like the area of pole barn 1 but drums were more easily accessible. Drum labels indicated the presence of MEK, UN 1993, and isopropyl alcohol, anhydrous. Both pole barns were about 50 feet away from the main building and about 25 feet from each other. Pole barns 3 and 4 (PB3 and PB4, respectively) were empty.

Main Building: The main building consists of eleven smaller buildings (buildings 1 thru 11 on figures). Building 1 (B1) the reception area, contained one 55-gallon plastic drum full of wood, and miscellaneous plastic debris. A 5-gallon pail of unknown contents sat on the floor approximately 10 feet from the closet. A cardboard box lab pack containing six 8-oz. bottles of "quaternary ammonium compound in isopropanol", was also found. Adjacent to this room, in building 1, was a storage room containing three 5-gallon pails of unknown contents.

Building 2 (B2) is a approximately 45,000 ft<sup>2</sup>. The largest of the eleven buildings, it is divided into several sections by temporary walls. There are a number of tool shop areas in this building. The building contains mostly wood, cardboard, and polyethylene debris. Five 5-gallon pails of unknown contents were grouped in the tool shop area adjacent to building 1. A diked area along the west wall of the building, directly east of building 1, contained 5 drums and four 5-gallon pails. Two of the drums were 55-gallon polys labelled as "CORROSIVE". A sample was taken from one of the drums and submitted to the lab for analysis. Field results show a pH of 1 to 2 Standard Units (S.U.). A 5-gallon container also marked "CORROSIVE" and labeled "sodium hydroxide solution" was also sampled.

Building 3 (B3), referred to as the shelf room, is approximately 5500 ft<sup>2</sup> and is located on the south side of the facility, east of building 1. This room contained four 5-gallon pails and one 30-gallon steel drum with unknown contents.

Building 4 (B4) is approximately 4158 ft<sup>2</sup> and is located directly north of B3. Ten full 55-gallon steel drums and one 5-

gallon pail line the southern-most wall. Label information was not available for these drums and containers.

Building 5 (B5), is referred to as the box room due to the several stacks of cardboard boxes stored here. Two empty 30-gallon drums and one 55-gallon steel drum labeled "caustic soda" were found near the southeast corner of the building in close proximity to the boxes.

Buildings 6, 7, 8, and 9 were empty except for some scattered wood and metal debris.

Building 10 (B10) is approximately 1200 ft<sup>2</sup> and is located southeast of buildings 1 thru 9. Six 50 pound boxes of desiccant are stacked next to the doorway along the west wall and labeled "OXIDIZER". Field oxidizer tests performed on the material showed positive results. Twenty full and six empty 55-gallon drums are located along the north wall of the building. Some of those drums were leaking an unidentifiable black viscous liquid and several of the drums appeared to be bulging. One drum to the east of the 26 drums was labeled "RADIOACTIVE", however, no readings above background were detected with the radiation meter.

Building 11 (B11) is approximately 4500 ft<sup>2</sup> and appears to be a more recent addition to the entire structure. This steel and fiberglass structure is north of building 10 and contains four 5-gallon pails, and one 55-gallon drum which is about 25% full of a white powder.

Building 12 (B12) is a 2400 ft<sup>2</sup> gray shed located approximately 80-feet west of the main building. The door on the north side of the shed is deteriorated and slides open easily. Inside the shed at the west end, are six 55-gallon poly drums stacked among a pile of wood and plastic debris. The drums are from 30-60% full of a clear liquid. A field pH test performed on the liquid showed 7 S.U.

Building 13 (B13), referred to as the oil house, is an enclosed brick structure approximately 1320 ft<sup>2</sup>, and about 30-feet west of the main building. Ten full 55-gallon steel drums were at the north end of the building. Some of the drums were open or the bung was loose, and several of them were leaking product. The PID showed readings of >2500 ppm organic vapors when placed near the opening of some of the drums. Labels indicated the presence of: ortho-xylene; isopropyl alcohol, anhydrous; "Monolec" power fluid; and other materials labeled as "FLAMMABLE". Twenty-four small containers were scattered throughout the building and appeared to contain paints and machine lubricating materials.

Building 14 (B14) is a wooden shed approximately 144-feet by 25-feet, and can be accessed by either the open awning at the

west end of the shed or through a door on the south side. Only a few unused polyethylene drums were found in this building.

The loading dock area, located on the north side of B10, contains approximately 43 empty drums staged here by Cousins. Five full 55-gallon drums were stacked against the fence along the east perimeter of the loading area. Fifteen feet directly north of these drums were four more full 55-gallon steel drums and three empties. Label information from the drums revealed low flash points and/or "FLAMMABLE" liquid.

### 3.3 Sampling Activities

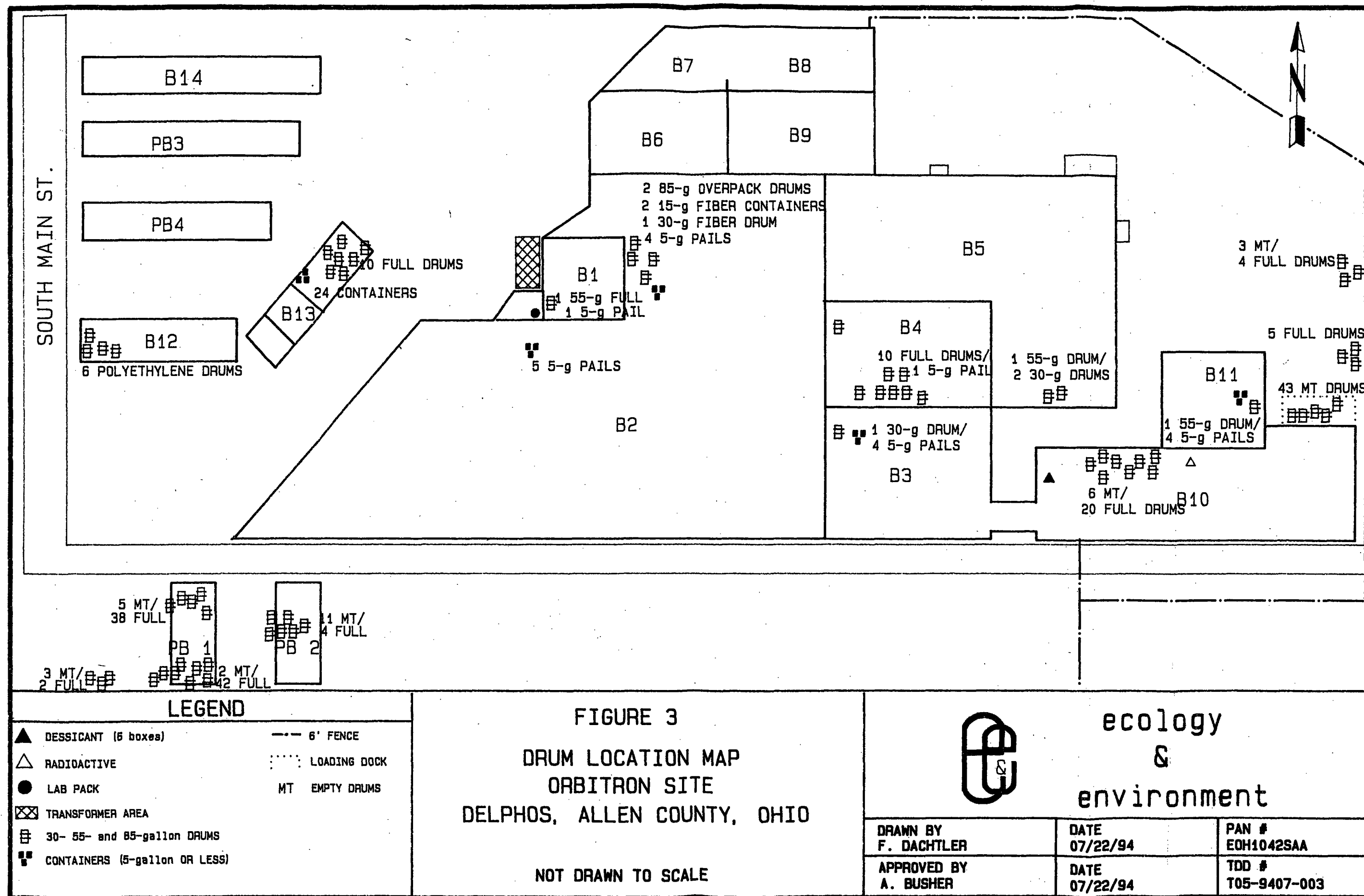
After completion of the initial site reconnaissance, TAT and the U.S. EPA OSC discussed their observations, as well as the proposed sampling scheme. OSC Renninger requested the TAT to collect seven samples to be analyzed for flash point, pH, and solvents.

The TAT conducted drum and container sampling in level B protection, with continuous monitoring of the breathing zone with the PID. Samples were collected with dedicated 1/2" diameter glass drum thieves, or with dedicated plastic scoops. Sample aliquots were then placed in precleaned 4- or 8- ounce glass jars, which were subsequently sealed with teflon lids and labeled. Outer sampling gloves were changed between sampling points. No readings above background levels were detected in the breathing zone on the PID during the drum and container sampling.

Drum sample OS-001 was a viscous, amber colored liquid collected from a full 55-gallon steel drum. This drum was located in pole barn 1 at the south end of the barn (Figure 4). Drum sample OS-002 was also a viscous, amber liquid from a full 55-gallon steel drum. This drum was also located in pole barn 1 near the drum marked OS-001.

Samples OS-003 thru OS-005A and OS-005B were collected in building 13, the oil house. All were a black liquid collected from three different, full 55-gallon drums. All three of the drums gave readings of >2500 ppm on the PID when held near the drum openings. "Used solvents" was written on the side of drum marked OS-004.

Drum sample OS-006 was a clear, colorless liquid collected from a 55-gallon poly drum. This drum was located in the diked area along the west wall of building 2. The drum was labeled "Cobalt sulfate, potassium bisulfide, H<sub>2</sub>O". Material from this drum was field tested for pH which showed a result of 1 to 2 S.U. Drum sample OS-007 was a yellowish, granular solid scraped from the opening of a 5-gallon container. The container was also located in the diked area and labeled "Potassium hydroxide, sodium hydroxide, Alkaline liquid, n.o.s, NA 1719."



Sample OS-008 was a white, powdery solid collected from the boxes labeled "OXIDIZER", desiccant, in building 10. This sample was field tested by the TAT to determine if it exhibited oxidizer characteristics. After the TAT determined that the material tested positive for oxidizers, OSC Renninger directed that the sample not be sent in for analysis.

Upon completion of the sampling actions, samples were decontaminated, labelled and packaged according to E & E and U.S. EPA protocols. TAT personnel conducted dry decontamination activities and the expended personal protective equipment (PPE) was bagged and left inside the building, as directed by the OSC. U.S. EPA, OEPA, Delphos Fire Department and TAT personnel departed the site at 1300 hours.

On July 20, 1994, at 1420 hours, TATM Frank Dachtler relinquished the seven samples to EnviroTest, Inc. (EnviroTest) labs in Maple Heights, Ohio. The chain-of-custody form was completed at this time. Analysis of two samples for pH, SW-846 Method 9040; six samples for flash point, SW-846 Method 1010; and one sample for a solvent scan, SW-846 Method 8240, with a 1-week verbal turnaround was requested under TDD# T05-9407-805.

#### **4.0 ANALYTICAL RESULTS**

Analytical results from EnviroTest revealed the presence of low pH, low flash points and materials containing xylenes. A summary of the results from EnviroTest are included as Table 1 and the analytical review memos for these results are included as Appendix B.

Samples OS-001, OS-002, OS-003, OS-004, OS-005A, and its duplicate OS-005B were analyzed for flash point. All six samples revealed flash points well below 140°F. Sample OS-003 was also submitted for a solvent scan which revealed a composition of greater than 99% xylenes. Samples OS-006 and OS-007 were analyzed for pH and revealed results of 2.08 S.U. and 9.48 S.U., respectively.

**TABLE 1**  
**ANALYTICAL SUMMARY**  
**for**  
**THE ORBITRON SITE**  
**DELPHOS, ALLEN COUNTY, OHIO**

SAMPLE ID	ANALYSIS	RESULT
OS-001	flashpoint	< 70°F
OS-002	flashpoint	93°F
OS-003	flashpoint	95°F
OS-003	solvent scan	> 99% xylenes
OS-004	flashpoint	103°F
OS-005A	flashpoint	< 70°F
OS-005B	flashpoint	< 70°F
OS-006	pH	2.08
OS-007	pH	9.49

\* NOTE: Samples collected by TAT and analyzed on July 26, 1994 by EnviroTest, Inc. located in Maple Heights, Cuyahoga County, Ohio, under analytical TDD# T05-9407-805.

## 5.0 DISCUSSION OF POTENTIAL THREATS

The conditions present at the site may constitute a threat to public health and the environment based on the considerations set forth in the National Contingency Plan (NCP), 40 CFR Section 300.415 (b) (2), which include, but are not limited to, the following:

- o Actual or potential exposure to hazardous substances or pollutants or contaminants by nearby populations, animals, or food chain;

The Orbitron site is located in a predominately residential area. The closest residence is less than 50 feet from the facility. Observations made during the site assessment indicated frequent trespassing and vandalism. Broken windows and open doorways were noticed on several of the buildings.

The buildings at the Orbitron site contain drums and containers of caustic soda, also known as sodium hydroxide and MEK. Sodium hydroxide and MEK are designated as a CERCLA hazardous substances as defined in 40 CFR Part 302.4.

Materials sampled by TAT at the Orbitron site may be considered hazardous due to their characteristic of ignitability. Six samples were ignitable, as defined in the NCP, 40 CFR Section 261.21 (a) (1): "A solid waste exhibits the characteristic of ignitability if...It is a liquid..." that "...has a flash point less than 140°F, as determined by...a Pensky-Marten Closed Cup Tester..."

- o Hazardous substances or pollutants or contaminants in drums, tanks, or other bulk storage containers, that may pose a threat of release;

Many of the drums are either open, in a deteriorating state, or have already broken open and spilled their contents onto surrounding drums or the ground. Areas of discoloration on concrete floors and the ground around clusters of drums suggest that either liquid contents have leaked from the drums or that solid contents have mixed with water and flowed from the drums.

- o Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released;

The Orbitron facility is located in the western Ohio area. The weather in this area includes heavy snow and rainfall, and sub-freezing temperatures. Temperatures in the summer can easily rise into the 90s. Characteristic of temperate climates, the area experiences several freeze-thaw cycles during the fall and spring seasons. The Orbitron facility is in various states of



disrepair. Broken out windows and leaking ceilings allow drums and containers stored inside the facility to be exposed to rain and snow, and to be effected by the freeze-thaw cycle. Most of the drums are located in the pole barn areas and are constantly exposed to weather conditions. Regular contraction and expansion

of steel and poly drums in response to the freeze-thaw cycle hastens the deterioration of drums and increases the likelihood of a release.

o Threat of fire or explosion;

The presence of wastes with flash points below 140°F at the Orbitron site increase the potential of a fire or explosion at the facility.

Several drums of MEK, xylene and other solvents are known to be inside or around the facility. These liquids exhibit the characteristic of ignitability, and are highly reactive in the presence of oxidizers. Laboratory analysis revealed flash points well below 140°F. In the event of a fire, these materials have the potential to give off toxic carbon monoxide which could be released into the environment and affect local residents.

## 6.0 SUMMARY

On July 19, 1994, TAT completed site assessment activities at the Orbitron Industries site in Delphos, Allen County, Ohio. A total of eight samples were collected and laboratory-analyzed for pH, flash point, and solvents. The presence of these materials at the site pose threats to human health and the environment as outlined above, and as defined in the NCP.



SITE NAME: ORBITRON      TDD: T059407003      PAN: EOH1042SAA  
 DIRECTION: EAST      DATE: 07/19/94      PHOTOGRAPHER: SW  
 DESCRIPTION: DRUMS OF SUSPECTED FLAMMABLE MATERIALS LOCATED AT THE  
 SOUTH END OF POLE BARN 1.



SITE NAME: ORBITRON      TDD: T059407003      PAN: EOH1042SAA  
 DIRECTION: WEST      DATE: 07/19/94      PHOTOGRAPHER: SW  
 DESCRIPTION: TAT MEMBERS IN LEVEL B PROTECTION OPENING DRUMS IN  
 POLE BARN 1 AREA.





SITE NAME: ORBITRON

TDD: T059407003

PAN: EOH104

DIRECTION: SOUTH

DATE: 07/19/94

PHOTOGRAPHER

DESCRIPTION: POLE BARN 1 ON THE SOUTH SIDE OF THE FACILITY.  
BARN 2 IS SEEN TO THE LEFT.



SITE NAME: ORBITRON

TDD: T059407003

PAN: EOH10428

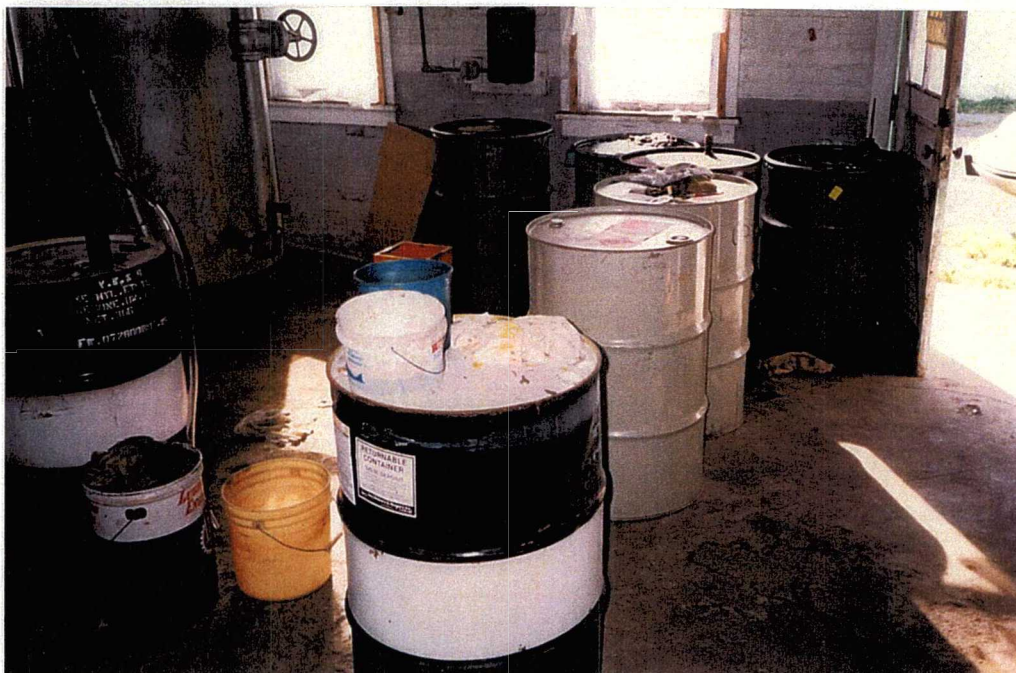
DIRECTION: SOUTHEAST

DATE: 07/19/94

PHOTOGRAPHER:

DESCRIPTION: AREA NEAR POLE BARN 1 WHERE ORIGINAL SPILL TO  
PLACE.



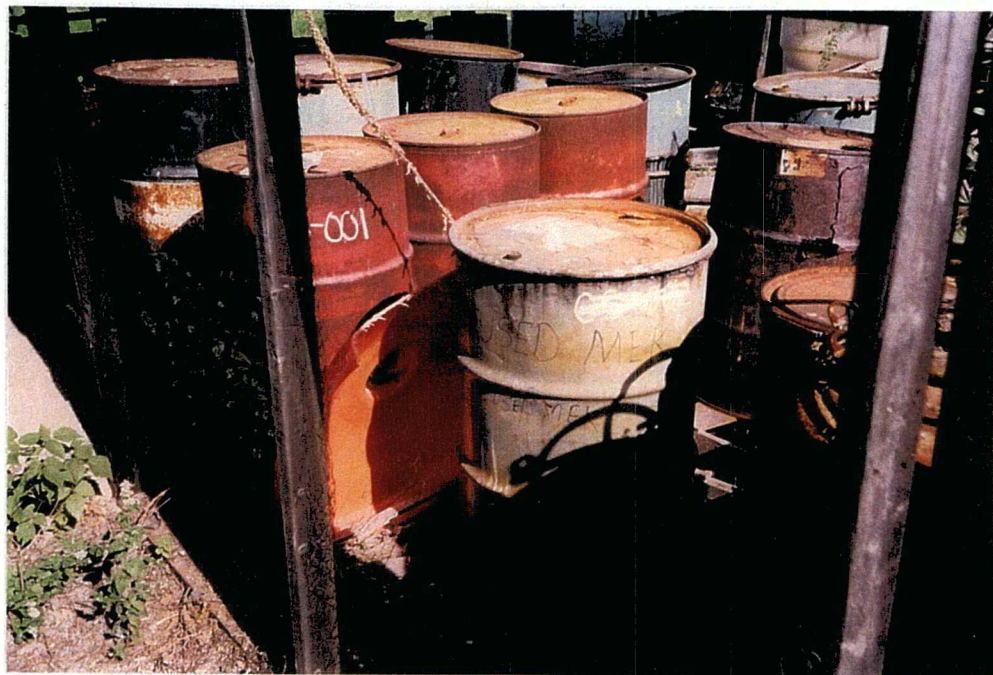


SITE NAME: ORBITRON TDD: T059407003 PAN: EOH1042SAA  
 DIRECTION: EAST DATE: 07/19/94 PHOTOGRAPHER: FD  
 DESCRIPTION: DRUMS IN BUILDING 13. SAMPLE POINT OS-004 IS LOCATED  
 IN THE BACKGROUND.



SITE NAME: ORBITRON TDD: T059407003 PAN: EOH1042SAA  
 DIRECTION: NORTH DATE: 07/19/94 PHOTOGRAPHER: SW  
 DESCRIPTION: LAB PACK OF FLAMMABLE LIQUIDS FOUND IN RECEPTION AREA  
 OF BUILDING 1.





SITE NAME: ORBITRON                      TDD: T059407003                      PAN: EOH1042SAA  
 DIRECTION: NORTH                      DATE: 07/19/94                      PHOTOGRAPHER: SW  
 DESCRIPTION: SAMPLE POINT OS-001 AND FULL DRUM MARKED "USED MEK"  
 UNDER POLE BARN 1.                      SAMPLE POINT OS-002 IS LOCATED IN THE  
 BACKGROUND.



SITE NAME: ORBITRON                      TDD: T059407003                      PAN: EOH1042SAA  
 DIRECTION: NORTH                      DATE: 07/19/94                      PHOTOGRAPHER: F  
 DESCRIPTION: FULL DRUMS OF FLAMMABLE LIQUIDS LOCATED IN BUILDING  
 13.                      SAMPLE POINT OS-003 WAS COLLECTED HERE AND ANALYZED FOR  
 FLASHPOINT AND VOC'S.                      SAMPLE POINT OS-005 IS TO LEFT OF OS-003.





SITE NAME: ORBITRON  
DIRECTION: NORTHWEST

TDD: T059407003  
DATE: 07/19/94

PAN: EOH1042SAA  
PHOTOGRAPHER: SW

DESCRIPTION: LEAKING DRUMS LOCATED IN BUILDING 10.



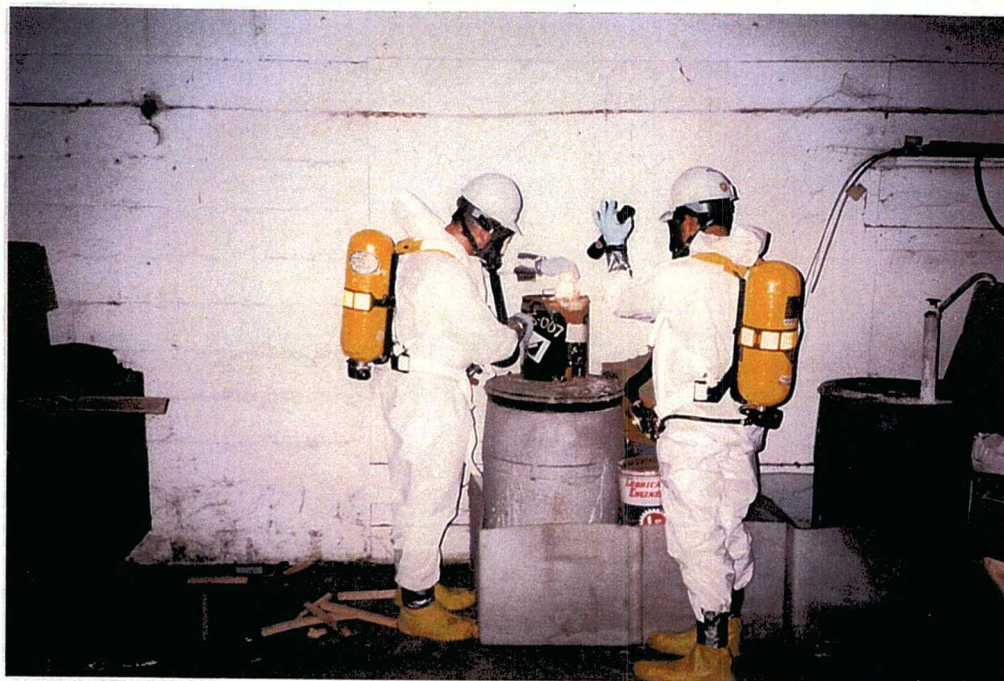
SITE NAME: ORBITRON  
DIRECTION: NORTHWEST

TDD: T059407003  
DATE: 07/19/94

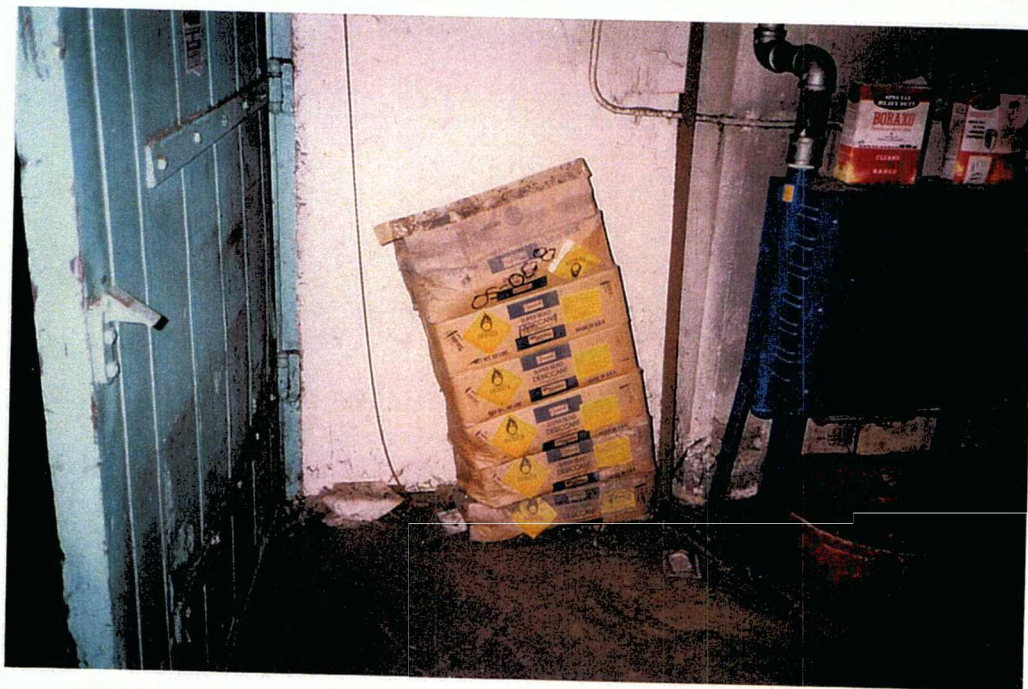
PAN: EOH1042SAA  
PHOTOGRAPHER: SW

DESCRIPTION: FULL 55-GALLON DRUMS ALONG NORTH WALL OF BUILDING 10.





SITE NAME: ORBITRON                      TDD: T059407003                      PAN: EOH104287  
 DIRECTION: WEST                      DATE: 07/19/94                      PHOTOGRAPHER: S  
 DESCRIPTION: TAT MEMBERS COLLECTING SAMPLE OS-007 FROM CONTAIN  
 MARKED "CORROSIVE" IN BUILDING 1. SAMPLE OS-006 WAS COLLECTED FRO  
 THE BLUE POLY DRUM TO THE RIGHT.



SITE NAME: ORBITRON                      TDD: T059407003                      PAN: EOH104287  
 DIRECTION: WEST                      DATE: 07/19/94                      PHOTOGRAPHER: S  
 DESCRIPTION: BOXES OF DESICCANT MARKED "OXIDIZER" LOCATED I  
 BUILDING 10. SAMPLE OS-008 WAS COLLECTED AND FIELD TESTED POSITIV  
 FOR OXIDIZING POTENTIAL.





SITE NAME: ORBITRON  
 DIRECTION: NORTHWEST  
 DESCRIPTION: EMPTY DRUM  
 LOCATED IN BUILDING 10.

TDD: T059407003  
 DATE: 07/19/94

PAN: EOH1042SAA  
 PHOTOGRAPHER: SW

Labeled "RADIOACTIVE MATERIAL, NOS"



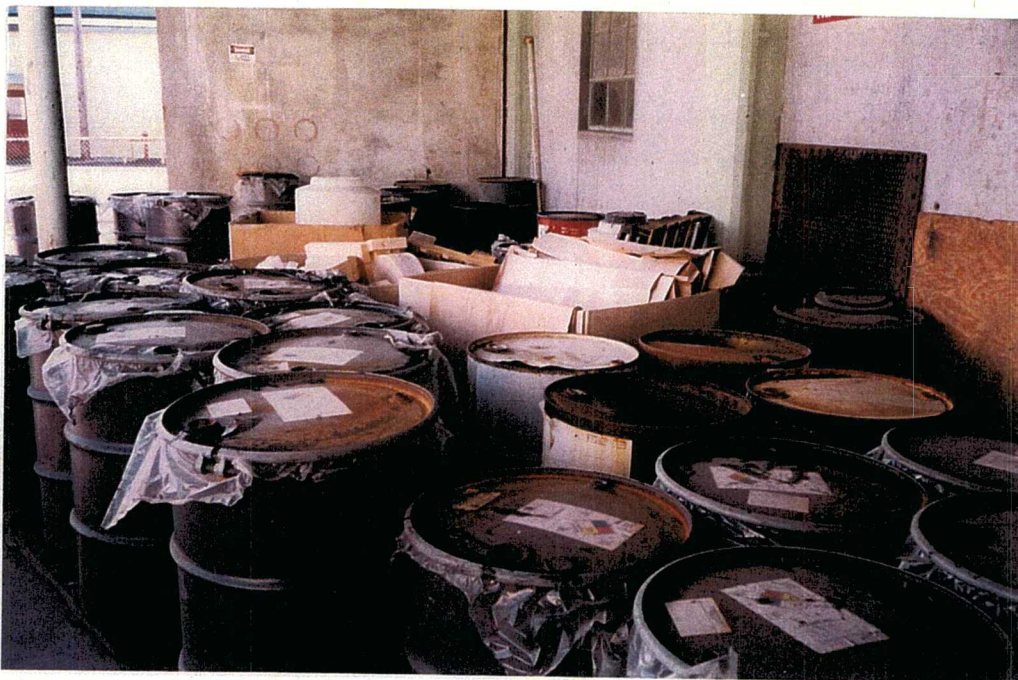
SITE NAME: ORBITRON  
 DIRECTION: EAST

TDD: T059407003  
 DATE: 07/19/94

PAN: EOH1042SAA  
 PHOTOGRAPHER: SW

DESCRIPTION: EMPTY FIBER DRUM AND BOXES LOCATED IN BUILDING 5.  
 OPEN DOORS MAKE THE FACILITY ACCESSIBLE.



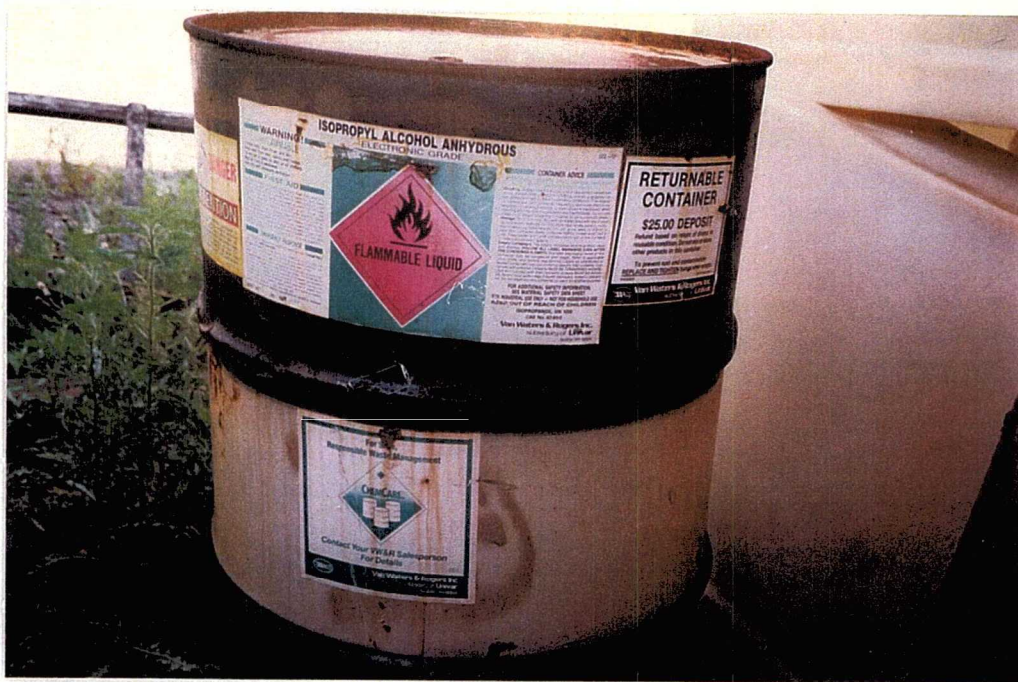


SITE NAME: ORBITRON                      TDD: T059407003                      PAN: EOH1042SAA  
 DIRECTION: EAST                      DATE: 07/19/94                      PHOTOGRAPHER: SW  
 DESCRIPTION: APPROXIMATELY 43 EMPTY DRUMS STAGED ON LOADING DOCK  
 BEHIND BUILDING 10 BY COUSINS ENVIRONMENTAL FOR ORBITRON  
 INDUSTRIES.



SITE NAME: ORBITRON                      TDD: T059407003                      PAN: EOH1042SAA  
 DIRECTION: NORTH                      DATE: 07/19/94                      PHOTOGRAPHER: SW  
 DESCRIPTION: FULL AND EMPTY DRUMS LOCATED ALONG INTERIOR OF FENCE  
 ON EAST SIDE OF THE FACILITY. COUSINS ENVIRONMENTAL SAMPLED THE  
 FULL DRUMS.



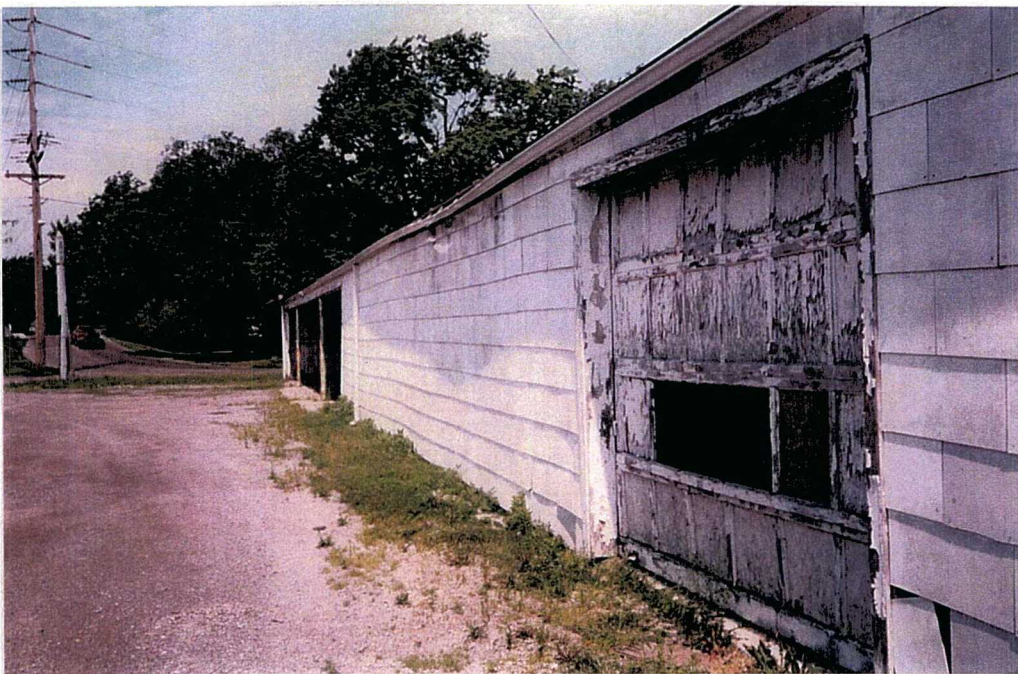


SITE NAME: ORBITRON TDD: T059407003 PAN: EOH1042SAI  
 DIRECTION: EAST DATE: 07/19/94 PHOTOGRAPHER: SW  
 DESCRIPTION: FULL DRUM LABELED ISOPROPYL ALCOHOL ANHYDROUS, ANI  
 "FLAMMABLE LIQUID" LOCATED NEAR POLE BARN 2.



SITE NAME: ORBITRON TDD: T059407003 PAN: EOH1042SAA  
 DIRECTION: SOUTH DATE: 07/19/94 PHOTOGRAPHER: SW  
 DESCRIPTION: OPEN DOOR TO BUILDING 12.





SITE NAME: ORBITRON

TDD: T059407003

PAN: EOH1042SAA

DIRECTION: WEST

DATE: 07/19/94

PHOTOGRAPHER: SW

DESCRIPTION: SOUTH SIDE OF BUILDING 14.



SITE NAME: ORBITRON

TDD: T059407003

PAN: EOH1042SAA

DIRECTION: NORTHEAST

DATE: 07/19/94

PHOTOGRAPHER: SW

DESCRIPTION: TRANSFORMERS LOCATED ON THE WEST SIDE OF THE FACILITY  
NEAR BUILDING 1.



# ecology and environment, inc.

6777 ENGLE ROAD, CLEVELAND, OHIO 44130, TEL. (216) 243-3330  
International Specialists in the Environment

## M E M O R A N D U M

DATE: August 8, 1994

TO: Frank C. Dachtler, TAT Project Manager, E & E, Inc.,  
Cleveland, OH

FROM: Emily Landis, TAT Geochemist, E & E, Inc.,  
Cleveland, OH

THRU: Anne A. Busher, ATATL, E & E, Inc., Cleveland, OH

SUBJ: Volatile Organics Data Quality Assurance Review for  
the Orbitron Site, Delphos, Allen County, Ohio

RE: Analytical TDD: T059407805 Project TDD: T059407003  
Analytical PAN: EOH1042AAA Project PAN: EOH1042SAA

The data quality assurance review of one discrete sample, collected at the Orbitron site on July 19, 1994, is now complete. The sample was submitted to EnviroTest, Inc., of Maple Heights, Ohio, to be analyzed for target compound list (TCL) volatile organic compounds. EnviroTest sub-contracted the work to American Environmental Laboratories of Bedford Heights, Ohio (AEL). AEL analyzed the sample by purge-and-trap gas chromatography/mass spectrometry, following EPA Method 8260.

### Data Qualifications:

I. Sample Holding Time: Acceptable.

EnviroTest, Inc. received the sample on July 20, 1994, within 24 hours of collection. The samples were analyzed by the sub-contractor laboratory on July 25, 1994. The sample was thus analyzed within the 14-day holding time limit.

II. GC/MS Tuning Criteria: Not Evaluated.

III. Initial and Continuing Calibrations: Acceptable.

For the initial calibrations on June 24 and July 22, 1994, all mean response factors (RFs) were greater than zero. The percent relative standard deviations (%RSD) of the relative

RRFs (RRFs) in the initial calibration were less than or equal to the control limit of 30% RSD; all VOA compounds had RRFs of at least 0.05.

The percent difference (%D) for all VOA compounds was less than or equal to 25%, except for 2-chloroethyl-vinylether (29% D). However, this compound was not detected in the samples, so no action is taken.

All retention times and Internal Standards were within -50% or +100% of the associated standard, as required.

IV. Error Determination: Precision Not Determined.

V. Blanks: Acceptable.

The method blank contained no VOA compounds above the detection limit.

VI. Compound Identification: Acceptable.

The relative retention times (RRTs) for o- and m,p-xylenes (reported as total xylenes) were within 0.06 units of the standard, as required.

VII. Quantitation/Detection Limits: Acceptable.

Sample dilution and raw data units were accounted for in the reported results.

VIII. Optional QC Checks: Acceptable.

Surrogate Recoveries - Surrogate compound recoveries were within control limits.

#### Overall Assessment of Data:

This data evaluation is based upon guidelines set forth in OSWER Directive 9360.4-01 (1990). With the information provided, the results are acceptable for use as reported.





# ENVIROTEST, INC.

ENVIRONMENTAL TESTING SERVICE CO.

3550 Warrensville Center Road • Suite 104 S • Shaker Heights • Ohio 44122

216-921-0066 • Fax 216-921-0061

Ecology and Environment, Inc.  
6777 Engle Road, Middleburg Heights, OHIO 44130.  
Attn.: Frank C. Dachtler

SAMPLE = OS-003

LAB. = 940531

ANALYTE	METHOD	RESULT	DETECTION LIMIT
<u>Volatile Organic Compound</u> <u>List 8240 (EPA Method 8260)</u>			
Acetone		Less than 100 mg L	100 mg L
Acetonitrile		Less than 100 mg L	100 mg L
Allyl chloride		Less than 100 mg L	100 mg L
Benzene		Less than 100 mg L	100 mg L
Benzyl chloride		Less than 100 mg L	100 mg L
Bromodichloromethane		Less than 100 mg L	100 mg L
Bromoform		Less than 100 mg L	100 mg L
Bromomethane		Less than 100 mg L	100 mg L
2-Butanol		Less than 100 mg L	100 mg L
Carbon disulfide		Less than 100 mg L	100 mg L
Carbon tetrachloride		Less than 100 mg L	100 mg L
Chlorobenzene		Less than 100 mg L	100 mg L
Chlorodibromoethane		Less than 100 mg L	100 mg L
Chloroethane		Less than 100 mg L	100 mg L
2-Chloroethyl vinyl ether		Less than 100 mg L	100 mg L
Chloroform		Less than 100 mg L	100 mg L
Chloromethane		Less than 100 mg L	100 mg L
Chloroprene		Less than 100 mg L	100 mg L
1,2-Dibromo-3-chloropropane		Less than 100 mg L	100 mg L
1,2-Dibromoethane		Less than 100 mg L	100 mg L
Dibromomethane		Less than 100 mg L	100 mg L
1,4-Dichloro-2-butene		Less than 100 mg L	100 mg L
Dichlorodifluoromethane		Less than 100 mg L	100 mg L
1,1-Dichloroethane		Less than 100 mg L	100 mg L
1,2-Dichloroethane		Less than 100 mg L	100 mg L
trans-1,2-Dichloroethene		Less than 100 mg L	100 mg L
1,2-Dichloropropane		Less than 100 mg L	100 mg L
cis-1,3-Dichloropropene		Less than 100 mg L	100 mg L

<i>trans</i> -1,3-dichloropropene	Less than 100 mg/L	100 mg/L
Ethylbenzene	Less than 100 mg/L	100 mg/L
Ethyl methacrylate	Less than 100 mg/L	100 mg/L
2-Hexanone	Less than 100 mg/L	100 mg/L
Isoputyl alcohol	Less than 100 mg/L	100 mg/L
Methacrylonitrile	Less than 100 mg/L	100 mg/L
Methylene chloride	Less than 100 mg/L	100 mg/L
Methyl iodide	Less than 100 mg/L	100 mg/L
Methyl methacrylate	Less than 100 mg/L	100 mg/L
4-Methyl-2-pentanone	Less than 100 mg/L	100 mg/L
Pentachloroethane	Less than 100 mg/L	100 mg/L
Propionitrile	Less than 100 mg/L	100 mg/L
Styrene	Less than 100 mg/L	100 mg/L
1,1,1,2-Tetrachloroethane	Less than 100 mg/L	100 mg/L
1,1,2,2-Tetrachloroethane	Less than 100 mg/L	100 mg/L
Tetrachloroethene	Less than 100 mg/L	100 mg/L
Toluene	Less than 100 mg/L	100 mg/L
1,1,1-Trichloroethane	Less than 100 mg/L	100 mg/L
1,1,2-Trichloroethane	Less than 100 mg/L	100 mg/L
Trichloroethene	Less than 100 mg/L	100 mg/L
1,2,3-Trichloropropane	Less than 100 mg/L	100 mg/L
Vinyl acetate	Less than 100 mg/L	100 mg/L
Vinyl chloride	Less than 100 mg/L	100 mg/L
Xylene (Total)	942130 mg/L	100 mg/L

% Surrogate recovery:

4-Bromofluorobenzene:	74	(74%-121%)
Pentafluorobenzene:	105	(80%-120%)
Trifluorotoluene:	108	(81%-117%)

DATA COMPLETED

3/26/94

APPROVED BY

*Lilia Shtarkman*

Lilia Shtarkman

CHAIN OF CUSTODY RECORD \* \*

Activity Code:

PROJ. NO.		PROJECT NAME		NO. OF CONTAINERS		ANALYTES		TAG NUMBERS	
SAMPLERS: (Print Name and Sign)		STATION LOCATION							
STA. NO.	DATE	TIME	COMP.	GRAB					
T05-9407-805									
FRANK DACHTLER		HAZARDOUS							
		NAZEER UDDIN							
OS-001	7/19	0850		X	POLE BARN 1 #1	1x8oz		X	
OS-002		0850		X	POLE BARN 1 #2	1x8oz		X	
OS-003		0830		X	SHED 1 #3	3x8oz	X	X	
OS-004		0850		X	SHED 1 #4	1x8oz		X	
OS-005A		0915		X	SHED 1 #5A	1x8oz		X	
OS-006		0920		X	Bldg. 1 #6 ACID	1x8oz	X		
OS-007	Y	0930		X	Bldg. 1 #7 NaOH	1x8oz	X		
OS-005B	Y	0915		X	SHED 1 #5B	1x8oz		X	
QA LEVEL II						SEND RESULTS TO:			
TURNAROUND: VERBAL → 7 CAL. DAYS						ATTN: FRANK C. DACHTLER			
HARDCOPY → 14 CAL. DAYS						Ecology: Environment, Inc.			
						6777 Engle Rd. Suite N			
						Cleveland, OH 44130			
						Phone (216) 243-3330			
						Fax (216) 243-6923			
Relinquished by: (Signature)		Date / Time		Received by: (Signature)		Ship To: Pick-up by			
						ENVIROTEST, Inc.			
Relinquished by: (Signature)		Date / Time		Received by: (Signature)		MADE Hts., OH			
						ATTN:			
Relinquished by: (Signature)		Date / Time		Received for Laboratory by: (Signature)		Date / Time		Airbill Number	
Distribution: White - Accompanies Shipment; Pink - Coordinator Field Files; Yellow - Laboratory File						Chain of Custody Seal Numbers			
						170503 & 36197			





# ecology and environment, inc.

8777 ENGLE ROAD, CLEVELAND, OHIO 44130, TEL. (216) 243-3330  
International Specialists in the Environment

## M E M O R A N D U M

DATE: August 8, 1994

TO: F. Dachtler, TAT Project Manager, E & E, Cleveland, OH

FROM: Emily Landis, TAT Geochemist, E & E, Cleveland, OH

THRU: Anne A. Busher, ATATL, E & E, Cleveland, OH *AK*

SUBJ: pH and Flashpoint Data Review, Orbitron Site, Delphos,  
Allen County, Ohio

RE: Analytical TDD: T059407805      Project TDD: T059407003  
Analytical PAN: EOH1042AAA      Project PAN: EOH1042SAA

The data quality assurance review of eight samples collected from the Orbitron site on July 19, 1994, is now complete. The samples were submitted to EnviroTest, Inc. of Maple Heights, Ohio, to be tested for pH (OS-006 and -007) and flashpoint (OS-001 through -005A and -005B).

### Data Qualifications:

#### I. Holding Time: Acceptable.

Both pH and flashpoint measurements were taken within 24 hours of receipt by the laboratory.

#### II. Duplicate Analyses: Acceptable.

For each sample, pH measurements were taken three times. Relative percent differences among three readings on one sample were less than one percent. The result of the duplicate flashpoint test for sample OS-003 was identical to the first result.

#### III. Instrument Calibration: Acceptable.

The pH meter was calibrated against buffers of 4.0, 7.0, and 10.0 just prior to testing the samples. Para-xylene flashpoint temperatures were within control limits.

### Overall Assessment of Data:

This data evaluation is based upon guidelines set forth in OSWER Directive 9360.4-01 (1990). With the data supplied, the results are acceptable for use as reported.



# ENVIROTEST, INC.

**ENVIRONMENTAL TESTING SERVICE CO.**

3550 Warrensville Center Road • Suite 104 S • Shaker Heights • Ohio 44122

216-921-0066 • Fax 216-921-0061

*Ecology and Environment, Inc.*

*6777 Engle Road, Middleburg Heights, OHIO 44130.*

*Attn.: Frank C. Dachler*

*SAMPLE = OS-001*

*LAB. #940529*

ANALYTE	METHOD	RESULT	DETECTION LIMIT
Flash Point	EPA 1010	Less than 70°F	2°F

DATA COMPLETED

2/26/94

APPROVED BY

*Lilia Shtarkman*

Lilia Shtarkman



# ENVIROTEST, INC.

ENVIRONMENTAL TESTING SERVICE CO.

3550 Warrensville Center Road • Suite 104 S • Shaker Heights • Ohio 44122

216-921-0066 • Fax 216-921-0061

*Ecology and Environment, Inc.*

*6777 Engle Road, Middleburg Heights, OHIO 44130.*

*Attn.: Frank C. Dachler*

*SAMPLE = OS-002*

*LAB. = 940530*

ANALYTE	METHOD	RESULT	DETECTION LIMIT
<i>Flash Point</i>	<i>EPA 1010</i>	<i>93°F</i>	<i>2°F</i>

DATA COMPLETED

*7/26/94*

APPROVED BY

*Lilia Shtarkman*

Lilia Shtarkman



# ENVIROTEST, INC.

ENVIRONMENTAL TESTING SERVICE CO.

3550 Warrensville Center Road • Suite 104 S • Shaker Heights • Ohio 44122

216-921-0066 • Fax 216-921-0061

*Ecology and Environment, Inc.*

*6777 Engle Road, Middleburg Heights, OHIO 44130.*

*Attn.: Frank C. Dachtler*

*SAMPLE = OS-003*

*LAB.#940531*

**ANALYTE**

**METHOD**

**RESULT**

**DETECTION LIMIT**

*Flash Point*

*EPA 1010*

*95°F*

*2°F*

DATA COMPLETED

*4/26/94*

APPROVED BY

*Lilia Shtarkman*

Lilia Shtarkman



# ENVIROTEST, INC.

**ENVIRONMENTAL TESTING SERVICE CO.**

3550 Warrensville Center Road • Suite 104 S • Shaker Heights • Ohio 44122

216-921-0066 • Fax 216-921-0061

*Ecology and Environment, Inc.*

*6777 Engle Road, Middleburg Heights, OHIO 44130.*

*Attn.: Frank C. Dachler*

*SAMPLE = OS-004*

*LAB.=940532*

ANALYTE	METHOD	RESULT	DETECTION LIMIT
<i>Flash Point</i>	<i>EPA 1010</i>	<i>103°F</i>	<i>2°F</i>

DATA COMPLETED

*4/26/94*

APPROVED BY

*Lilia Shtarkman*

Lilia Shtarkman



# ENVIROTEST, INC.

ENVIRONMENTAL TESTING SERVICE CO.

3550 Warrensville Center Road • Suite 104 S • Shaker Heights • Ohio 44122

216-921-0066 • Fax 216-921-0061

*Ecology and Environment, Inc.*

*6777 Engle Road, Middleburg Heights, OHIO 44130.*

*Attn.: Frank C. Datchler*

*SAMPLE = OS-005 A*

*LAB.#940533*

**ANALYTE**

**METHOD**

**RESULT**

**DETECTION LIMIT**

*Flash Point*

*EPA 1010*

*Less than 70°F*

*2F*

DATA COMPLETED

*2/26/94*

APPROVED BY

*Lilia Shtarkman*

Lilia Shtarkman



# ENVIROTEST, INC.

## ENVIRONMENTAL TESTING SERVICE CO.

3550 Warrensville Center Road • Suite 104 S • Shaker Heights • Ohio 44122  
216-921-0066 • Fax 216-921-0061

*Ecology and Environment, Inc.  
6777 Engle Road, Middleburg Heights, OHIO 44130.  
Attn.: Frank C. Dachtler*

**SAMPLE** = OS-006

**LAB.** = 940534

ANALYTE	METHOD	RESULT	DETECTION LIMIT
<i>pH</i>	<i>EPA 9040</i>	<i>2.08 SU</i>	<i>0.01 SU</i>

DATA COMPLETED

*4/26/94*

APPROVED BY

*Lilia Shtarkman*

Lilia Shtarkman



# ENVIROTEST, INC.

ENVIRONMENTAL TESTING SERVICE CO.

3550 Warrensville Center Road • Suite 104 S • Shaker Heights • Ohio 44122

216-921-0066 • Fax 216-921-0061

*Ecology and Environment, Inc.*

*6777 Engle Road, Middleburg Heights, OHIO 44130.*

*Attn.: Frank C. Dachler*

**SAMPLE # OS-007**

**LAB.#940535**

<b>ANALYTE</b>	<b>METHOD</b>	<b>RESULT</b>	<b>DETECTION LIMIT</b>
<i>pH</i>	<i>EPA 9040</i>	<i>9.49 SU</i>	<i>0.01 SU</i>

DATA COMPLETED

*8/26/94*

APPROVED BY

*Lilia Shtarkman*

Lilia Shtarkman





# ENVIROTEST, INC.

## ENVIRONMENTAL TESTING SERVICE CO.

3550 Warrensville Center Road • Suite 104 S • Shaker Heights • Ohio 44122  
216-921-0066 • Fax 216-921-0061

RECEIVED

JAN 30 2006

*Ecology and Environment, Inc.  
6777 Engle Road, Middleburg Heights, OHIO 44130.  
Attn.: Frank C. Dachler*

OHIO E.P.A.  
N.W.D.O.

*SAMPLE # OS-005 B*

*LAB.#940536*

ANALYTE	METHOD	RESULT	DETECTION LIMIT
---------	--------	--------	-----------------

*Flash Point*

*EPA 1010*

*Less than 70°F*

*FF*

DATA COMPLETED

*2/26/94*

APPROVED BY

*Lilia Shtarkman*

Lilia Shtarkman

## ATTACHMENT C



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

SEP 20 1994

~~John~~ Please copy  
Bruce Dunsen  
near forward  
original to Kevin.  
Thanks, J  
Allen Co.  
Orbitron Ind. 9/24/94

REPLY TO THE ATTENTION OF:  
H-7J

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Bobick, Inc.  
(formerly Orbitron Industries, Inc.)  
4101 Edision Lakes Parkway, Suite 160  
Mishawaka, Indiana 46545

Re: Orbitron Site  
901 South Main Street  
Delphos, Allen County, Ohio

Dear Sir or Madam:

Enclosed please find an executed copy of the Administrative Order by Consent issued for this site pursuant to Sections 106 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9606 and 9622. Thank you for your cooperation in this matter.

If you have any questions regarding this Order, please contact Michael Anastasio, Assistant Regional Counsel, at (312) 886-7951, or Steve Renninger, On-Scene Coordinator, at (216) 522-7260.

Sincerely yours,

William E. Muno, Director  
Waste Management Division

Enclosure

cc: J. Carlson, OEPA

RECEIVED

SEP 29 1994

OHIO E.P.A.  
N.W.D.O.

cc: Janice A. Carlson  
Acting Chief  
Division of Emergency & Remedial Response  
Ohio Environmental Protection Agency  
1800 WaterMark Drive  
Columbus, Ohio 43266-0149

bcc: Docket Analyst, ORC (CS-29A)  
Mike Anastasio, ORC (CS-29A)  
Steve Renninger (OSC), (SEDO)  
Debora Dawley (ESS), (HSES-5J)  
File copy  
Jose Cisneros, ESS (HSES-5J)  
Mary Ellen Ryan, SFAS (MF-10J)  
Oliver Warnsley, CRS (HSM-5J)  
EERB Site File  
EERB Read File  
Toni Lesser, Public Affairs (P-19J) w/out attachments  
Don Henne, Department of Interior

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

IN THE MATTER OF:  
Orbitron Site  
901 South Main Street  
Delphos, Allen County,  
Ohio

Docket No.

V-W- '94-C-250

Respondent:

Bobick, Inc. (formerly  
Orbitron Industries, Inc.)

ADMINISTRATIVE ORDER BY  
CONSENT PURSUANT TO  
Section 106 OF THE  
COMPREHENSIVE  
ENVIRONMENTAL RESPONSE,  
COMPENSATION, AND  
LIABILITY ACT OF 1980,  
as amended, 42 U.S.C.  
§ 9606(a)

I. JURISDICTION AND GENERAL PROVISIONS

This Order is entered voluntarily by the United States Environmental Protection Agency ("USEPA") and Bobick, Inc. (formerly Orbitron Industries, Inc.) (the "Respondent"). The Order is issued pursuant to the authority vested in the President of the United States by Sections 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §§ 9606(a), 9607 and 9622. This authority has been delegated to the Administrator of the USEPA by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Regional Administrators by USEPA Delegation Nos. 14-14-A, 14-14-C and 14-14-D, and to the Director, Waste Management Division, Region 5, by Regional Delegation Nos. 14-14-A, 14-14-C and 14-14-D.

This Order provides for performance of removal actions and reimbursement of response costs incurred by the United States in connection with property located at 901 South Main Street, Delphos, Allen County, Ohio (the "Orbitron Site" or the "Site"). This Order requires the Respondent to conduct removal actions described herein to abate an imminent and substantial endangerment to the public health, welfare or the environment that may be presented by the actual or threatened release of hazardous substances at or from the Site.

A copy of this Order will also be provided to the State of Ohio, which has been notified of the issuance of this order pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

Respondent's participation in this Order shall not constitute an admission of liability or of USEPA's findings or determinations contained in this Order except in a proceeding to enforce the terms of this Order. Respondent agrees to comply with and be bound by

the terms of this Order. Respondent further agrees that it will not contest the basis or validity of this Order or its terms.

## **II. PARTIES BOUND**

This Order applies to and is binding upon USEPA, and upon Respondent and Respondent's heirs, receivers, trustees, successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondent's responsibilities under this Order. Respondent is jointly and severally liable for carrying out all activities required by this Order. Compliance or noncompliance by Respondent with any provision of this Order shall not excuse or justify noncompliance by any other Respondent.

Respondent shall ensure that their contractors, subcontractors, and representatives comply with this Order. Respondent shall be responsible for any noncompliance with this Order.

## **III. FINDINGS OF FACT**

Based on available information, including the Administrative Record in this matter, USEPA hereby finds that:

1. The Orbitron Site (the "Orbitron Site" the "Site" or "the Facility") is an abandoned plastics manufacturing/molding facility located at 901 South Main Street in Delphos, Allen County, Ohio. The area is zoned for industrial use. It is approximately 7 acres in size. Residential areas are situated nearby.
2. The Respondent has been and is an owner and/or operator of the Site.
3. On June 2, 1994, Ohio EPA ("OEPA") responded to a drum spill at the Facility. OEPA inspectors observed approximately 125 drums on-site, both indoors and outdoors. OEPA and the Delphos Fire Department documented one or more abandoned leaking drums with released/spilled material which migrated across a gravel driveway and soaked into the ground. The Delphos Fire Department attempted to stabilize the drums with an earthen dike. OEPA observed numerous other abandoned drums at the Site labelled as hazardous waste. Interdyne, an Orbitron contractor, overpacked the three drums from which the release occurred.
4. On July 5, 1994, OEPA issued a Notice of Violation to Orbitron setting forth the determination that Orbitron was in violation of state hazardous waste regulations and ordering Orbitron to conduct detailed analytical tests on substances present at the Site and mitigate the threat to human health and the environment posed by open drums at the Site.

5. On July 13, 1994, USEPA received a report from Orbitron that 54 abandoned drums remained on-site and that some of the drums contained water-soluble paint and vinyl coating.

6. On July 15, 1994, Mr. Tom Cooper voluntarily granted USEPA access to the Site to conduct an investigation, collect samples and assess the threat posed by the Site. Pursuant to the July 15, 1994 grant of access, on July 19, 1994, USEPA, with its Technical Assistance Team, conducted the site investigation in the presence of Yocum Realty and Cousins Environmental Services. During the July 19, 1994 site investigation, USEPA observed and documented the presence of approximately 207 abandoned drums and containers in four areas throughout the Site, including: the pole barn area, the oil storage building area, the main building area, and the loading dock area. Many drums were open and/or leaking at the time of inspection. Access to the Site as well as these areas was unrestricted. USEPA observed children playing within 75 feet of the abandoned drum areas.

7. During the July 19, 1994 investigation, USEPA observed and documented, inter alia, the following at the Site: the presence of ignitable and corrosive wastestreams in abandoned drums, some of which were open and/or leaking; analytical results indicating the presence of RCRA characteristic wastes, including 5 ignitable wastestreams with documented flashpoints as low as 70 degrees Fahrenheit (70 °F) (flashpoints of samples taken from abandoned drums at the Site were 70°F (2 drums), 93°F, 95°F, and 103°F), and 1 corrosive wastestream with a pH of 2.08, in abandoned drums; the presence of hazardous substances (i.e., xylene) abandoned drums; many abandoned drums marked hazardous and many abandoned drums labelled as containing Methyl Ethyl Ketone ("MEK").

8. Access to the Site is unrestricted and children have been observed playing within approximately 75 feet of abandoned drums. Accordingly, nearby residents and passers-by, including children, are at risk of direct exposure to the substances present at the Site. In addition, evidence of vandalism (e.g., kicked-in doors) has been observed. Furthermore, if an explosion occurs, contaminants could become airborne and very well affect the nearby population.

#### **IV. CONCLUSIONS OF LAW AND DETERMINATIONS**

Based on the Findings of Fact set forth above, and the Administrative Record supporting these removal actions, USEPA has determined that:

1. The Orbitron Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

2. Xylene is a "hazardous substance" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

3. The Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

4. The Respondent is the present "owner" and/or "operator" of the Orbitron Site, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20). The Respondent is either a person who at the time of disposal of any hazardous substances owned or operated the Orbitron Site, or who arranged for disposal or transport for disposal of hazardous substances at the Orbitron Site. Respondent therefore are liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

5. The conditions described in the Findings of Fact above constitute an actual or threatened "release" of a hazardous substance from the facility into the "environment" as defined by Sections 101(8) and (22) of CERCLA, 42 U.S.C. §§ 9601(8) and (22).

6. The conditions present at the Site constitute a threat to public health, welfare, or the environment based upon the factors set forth in Section 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan, as amended ("NCP"), 40 CFR § 300.415(b)(2). These factors include, but are not limited to, the following:

- a. actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, pollutants or contaminants;

The Orbitron site is unsecured and subject to unauthorized access. Residential areas are situated nearby and children have been observed playing within 75 feet of the abandoned drums. Considering the unrestricted access to the open and/or deteriorated hazardous substances (i.e., xylene), corrosive, ignitable, and oxidizer drums and containers on site, the potential for direct exposure to human and animal populations exists. During the July 19, 1994, U.S. EPA site investigation, drums were documented to contain corrosive (Ph=2.08), ignitable (xylene, flash point < 70 degree F), and oxidizer wastes as well as hazardous substances (e.g., xylene). Many drums were open or deteriorated due to weather conditions or vandalism. Also, the site has a history of trespassing and vandalism.

- b. Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release;

During the July 19, 1994, U.S. EPA site investigation, the OSC observed abandoned drums containing corrosive, ignitable, and oxidizer waste streams as well as hazardous substances (i.e., xylene) to be open and in varying stages of deterioration, some having spilled contents creating incompatible situations including acids/caustics. During the July 19, 1994, site



investigation, the OSC observed open drums containing xylene and waste solvents adjacent to broken and suspected vandalized doors of the oil/solvent storage building. The OSC observed ignitable drums staged in an outdoor pole barn to be deteriorated and bulging, posing a threat of release. Many drums were marked hazardous and others "used solvent" and "MEK".

- c. Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released;

Northcentral Ohio typically has a substantial rainfall in the spring and autumn; summer temperatures are often above 90 degrees F. Continuing heavy precipitation and extreme temperatures would continue deterioration of the drums and containers. During the July 19, 1994, U.S. EPA site investigation, the OSC noted that weather conditions have affected the integrity of the drums to date. Many of the drums were open, rusted, or bulging due to extreme weather conditions. Drum and container samples obtained by TAT during the July 19, 1994, site investigations documented contents as ignitable wastes, including xylene, with a flash point of < 70 degrees F.

- d. Threat of fire or explosion;

The Orbitron Site contains approximately 207 abandoned surficial drums and containers. Drum and container samples obtained by TAT during the July 19, 1994, site investigation documented contents as ignitable wastes, including xylene, with a flash point of < 70 degrees F. Therefore, the potential for an explosion exists, and if such an event occurs, contaminants could become airborne and may affect the nearby population.

7. The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

8. The removal actions required by this Order are necessary to protect the public health, welfare, or the environment, and are not inconsistent with the NCP or CERCLA.

#### **V. ORDER**

Based upon the foregoing Findings of Fact, Conclusions of Law and Determinations, it is hereby ordered and agreed that Respondent shall comply with the following provisions, including but not limited to all documents attached to or incorporated into this Order, and perform the following actions:

1. Designation of Contractor, Project Coordinator, and On-Scene Coordinator

Respondent shall perform the removal actions required by this Order themselves or retain (a) contractor(s) to implement the removal actions. Respondent shall notify USEPA of Respondent's qualifications or the name and qualifications of such contractor(s), whichever is applicable, within 5 business days of the effective date of this Order. Respondent shall also notify USEPA of the name and qualifications of any other contractors or subcontractors retained to perform work under this Order at least 5 business days prior to commencement of such work. USEPA retains the right to disapprove of the Respondent or any of the contractors and/or subcontractors retained by the Respondent. If USEPA disapproves a selected contractor, Respondent shall retain a different contractor within 2 business days following USEPA's disapproval and shall notify USEPA of that contractor's name and qualifications within 3 business days of USEPA's disapproval.

Within 5 business days after the effective date of this Order, the Respondent shall designate a Project Coordinator who shall be responsible for administration of all the Respondent's actions required by the Order. Respondent shall submit the designated coordinator's name, address, telephone number, and qualifications to USEPA. To the greatest extent possible, the Project Coordinator shall be present on site or readily available during site work. USEPA retains the right to disapprove of any Project Coordinator named by the Respondent. If USEPA disapproves a selected Project Coordinator, Respondent shall retain a different Project Coordinator within 3 business days following USEPA's disapproval and shall notify USEPA of that person's name and qualifications within 4 business days of USEPA's disapproval. Receipt by Respondent's Project Coordinator of any notice or communication from USEPA relating to this Order shall constitute receipt by Respondent.

The USEPA has designated Steve Renninger of the Emergency Response Branch, Region 5, as its On-Scene Coordinator (OSC). Respondent shall direct all submissions required by this Order to the OSC at U.S. Environmental Protection Agency, Region 5, Eastern District Office, 25089 Center Ridge Road, Mail Code SE-W, Westlake, OH 44145, phone (216) 522-7260, fax (216) 522-2295. Respondent is encouraged to make their submissions to USEPA on recycled paper (which includes significant postconsumer waste paper content where possible) and using two-sided copies.

USEPA and Respondent shall have the right, subject to the immediately preceding paragraph, to change their designated OSC or Project Coordinator. USEPA shall notify the Respondent, and Respondent shall notify USEPA, as early as possible before such a change is made, but in no case less than 24 hours before such a change. The initial notification may be made orally but it shall

be promptly followed by a written notice.

## 2. Work to Be Performed

Respondent shall perform, at a minimum, the following removal actions:

- a. Develop and implement a site health and safety plan.
- b. Establish site security. Restrict access to drum storage areas.
- c. Properly stabilize, stage, inventory, identify, sample, characterize, remove, treat and dispose of (off-site) all drums, containers, tanks, transformers, and associated contents, and associated contaminated soil, including all hazardous substances, pollutants, and contaminants, and all other hazardous substances, which are present at the Site.

### 2.1 Work Plan and Implementation

Within 10 business days after the effective date of this Order, the Respondent shall submit to USEPA for approval a draft Work Plan for performing the removal activities set forth above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the actions required by this Order.

USEPA may approve, disapprove, require revisions to, or modify the draft Work Plan. If USEPA requires revisions, Respondent shall submit a revised draft Work Plan within 7 business days of receipt of USEPA's notification of required revisions. Respondent shall implement the Work Plan as finally approved in writing by USEPA in accordance with the schedule approved by USEPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications shall be fully enforceable under this Order. Respondent shall notify USEPA at least 48 hours prior to performing any on-site work pursuant to the USEPA approved work plan.

Respondent shall not commence or undertake any removal actions at the Site without prior USEPA approval.

### 2.2 Health and Safety Plan

Within 10 business days after the effective date of this Order, the Respondent shall submit for USEPA review and comment a plan that ensures the protection of the public health and safety during performance of on-site work under this Order. This plan shall comply with applicable Occupational Safety and Health Administration (OSHA) regulations found at 29 CFR Part 1910. If USEPA determines it is appropriate, the plan shall also include

contingency planning. Respondent shall incorporate all changes to the plan recommended by USEPA, and implement the plan during the pendency of the removal action.

### 2.3 Quality Assurance and Sampling

All sampling and analyses performed pursuant to this Order shall conform to USEPA direction, approval, and guidance regarding sampling, quality assurance/quality control (QA/QC), data validation, and chain of custody procedures. Respondent shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with USEPA guidance.

Upon request by USEPA, Respondent shall have such a laboratory analyze samples submitted by USEPA for quality assurance monitoring. Respondent shall provide to USEPA the quality assurance/quality control procedures followed by all sampling teams and laboratories performing data collection and/or analysis. Respondent shall also ensure provision of analytical tracking information consistent with OSWER Directive No. 9240.0-2B, "Extending the Tracking of Analytical Services to PRP-Lead Superfund Sites."

Upon request by USEPA, Respondent shall allow USEPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondent or its contractors or agents while performing work under this Order. Respondent shall notify USEPA not less than 3 business days in advance of any sample collection activity. USEPA shall have the right to take any additional samples that it deems necessary.

### 2.4 Post-Removal Site Control

In accordance with the Work Plan schedule, or as otherwise directed by the OSC, Respondent shall submit a proposal for post-removal site control, consistent with Section 300.415(k) of the NCP, 40 CFR § 300.415(k), and OSWER Directive 9360.2-02. Upon USEPA approval, Respondent shall implement such controls and shall provide USEPA with documentation of all post-removal site control arrangements.

### 2.5 Reporting

Respondent shall submit a monthly written progress report to USEPA concerning actions undertaken pursuant to this Order, beginning 30 calendar days after the date of USEPA's approval of the Work Plan, until termination of this Order, unless otherwise directed in writing by the OSC. These reports shall describe all significant developments during the preceding period, including the work performed and any problems encountered, analytical data received during the reporting period, and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or

anticipated problems.

Any Respondent that owns any portion of the Site shall, at least 30 days prior to the conveyance of any interest in real property at the Site, give written notice of this Order to the transferee and written notice of the proposed conveyance to USEPA and the State. The notice to USEPA and the State shall include the name and address of the transferee. The party conveying such an interest shall require that the transferee will provide access as described in Section V.3 (Access to Property and Information).

## 2.5 Final Report

Within 60 calendar days after completion of all removal actions required under this Order, the Respondent shall submit for USEPA review a final report summarizing the actions taken to comply with this Order. The final report shall conform to the requirements set forth in Section 300.165 of the NCP, 40 CFR § 300.165. The final report shall also include a good faith estimate of total costs incurred in complying with the Order, a listing of quantities and types of materials removed off-site or handled on-site, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destinations of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits).

The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

Under penalty of law, I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate, and complete.

## 3. Access to Property and Information

Respondent shall provide or obtain access to the Site and off-site areas to which access is necessary to implement this Order, and shall provide access to all records and documentation related to the conditions at the Site and the actions conducted pursuant to this Order. Such access shall be provided to USEPA employees, contractors, agents, consultants, designees, representatives, and State of Ohio representatives. These individuals shall be permitted to move freely at the Site and appropriate off-site areas in order to conduct actions which USEPA determines to be necessary. Respondent shall submit to USEPA, upon request, the results of all sampling or tests and all other data generated by Respondent or its contractor(s), or on the Respondent's behalf during implementation of this Order.

Where work under this Order is to be performed in areas owned by or in possession of someone other than Respondent, Respondent shall use their best efforts to obtain all necessary access agreements within 14 calendar days after the effective date of this Order, or as otherwise specified in writing by the OSC. Respondent shall immediately notify USEPA if, after using their best efforts, they are unable to obtain such agreements. Respondent shall describe in writing their efforts to obtain access. USEPA may then assist Respondent in gaining access, to the extent necessary to effectuate the response actions described herein, using such means as USEPA deems appropriate. Respondent shall reimburse USEPA for all costs and attorneys fees incurred by the United States in obtaining such access.

4. Record Retention, Documentation, Availability of Information

Respondent shall preserve all documents and information relating to work performed under this Order, or relating to the hazardous substances found on or released from the Site, for six years following completion of the removal actions required by this Order. At the end of this six year period and at least 60 days before any document or information is destroyed, Respondent shall notify USEPA that such documents and information are available to USEPA for inspection, and upon request, shall provide the originals or copies of such documents and information to USEPA. In addition, Respondent shall provide documents and information retained under this Section at any time before expiration of the six year period at the written request of USEPA.

5. Off-Site Shipments

All hazardous substances, pollutants or contaminants removed off-site pursuant to this Order for treatment, storage or disposal shall be treated, stored, or disposed of at a facility in compliance, as determined by USEPA, with the USEPA Revised Off-Site Rule, 40 CFR § 300.440, 58 Federal Register 49215 (Sept. 22, 1993).

6. Compliance With Other Laws

Respondent shall perform all actions required pursuant to this Order in accordance with all applicable local, state, and federal laws and regulations except as provided in CERCLA Section 121(e), 42 U.S.C. § 9621(e), and 40 CFR § 300.415(i). In accordance with 40 CFR § 300.415(i), all on-site actions required pursuant to this Order shall, to the extent practicable, as determined by USEPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements under federal environmental or state environmental or facility siting laws.

## **7. Emergency Response and Notification of Releases**

If any incident, or change in Site conditions, during the activities conducted pursuant to this Order causes or threatens to cause an additional release of hazardous substances from the Site or an endangerment to the public health, welfare, or the environment, the Respondent shall immediately take all appropriate action to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondent shall also immediately notify the OSC or, in the event of his/her unavailability, shall notify the Regional Duty Officer, Emergency Response Branch, Region 5 at (312) 353-2318, of the incident or Site conditions. If Respondent fails to respond, USEPA may respond to the release or endangerment and reserve the right to recover costs associated with that response.

Respondent shall submit a written report to USEPA within 7 business days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. Respondent shall also comply with any other notification requirements, including those in CERCLA Section 103, 42 U.S.C. § 9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § 11004.

## **VI. AUTHORITY OF THE USEPA ON-SCENE COORDINATOR**

The OSC shall be responsible for overseeing the implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by USEPA or Respondent at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

## **VII. REIMBURSEMENT OF COSTS**

Respondent shall pay all past response costs and oversight costs of the United States related to the Site that are not inconsistent with the NCP. As soon as practicable after the effective date of this Order, USEPA will send Respondent a bill for "past response costs" at the Site. USEPA's bill will include an Itemized Cost Summary. "Past response costs" are all costs, including, but not limited to, direct and indirect costs and interest, that the United States, its employees, agents, contractors, consultants, and other authorized representatives incurred and paid with regard to the Site prior to the date through which the Itemized Cost Summary runs".

In addition, USEPA will send Respondent a bill for "oversight costs" on an annual basis. "Oversight costs" are all costs, including, but not limited to, direct and indirect costs, that the

United States incurs in reviewing or developing plans, reports and other items pursuant to this AOC. "Oversight costs" shall also include all costs, including direct and indirect costs, paid by the United States in connection with the Site between the date through which the USEPA's Itemized Cost Summary for "past response costs" ran" and the effective date of this AOC.

Respondent shall, within 30 calendar days of receipt of a bill, remit a cashier's or certified check for the amount of the bill made payable to the "Hazardous Substance Superfund," to the following address:

U.S. Environmental Protection Agency  
Superfund Accounting  
P.O. Box 70753  
Chicago, Illinois 60673

Respondent shall simultaneously transmit a copy of the check to the Director, Waste Management Division, USEPA Region 5, 77 West Jackson Blvd., Chicago, Illinois, 60604-3590. Payments shall be designated as "Response Costs - Orbitron Site" and shall reference the payor's name and address, the USEPA site identification number XQ, and the docket number of this Order.

In the event that any payment is not made within the deadlines described above, Respondent shall pay interest on the unpaid balance. Interest is established at the rate specified in Section 107(a) of CERCLA, 42 U.S.C. § 9607(a). The interest shall begin to accrue on the date of the Respondent's receipt of the bill (or for past response costs, on the effective date of this Order). Interest shall accrue at the rate specified through the date of the payment. Payments of interest made under this paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondent's failure to make timely payments under this Section.

Respondent may dispute all or part of a bill for Future Response Costs submitted under this Order, if Respondent alleges that USEPA has made an accounting error, or if Respondent alleges that a cost item is inconsistent with the NCP.

If any dispute over costs is resolved before payment is due, the amount due will be adjusted as necessary. If the dispute is not resolved before payment is due, Respondent shall pay the full amount of the uncontested costs into the Hazardous Substance Fund as specified above on or before the due date. Within the same time period, Respondent shall pay the full amount of the contested costs into an interest-bearing escrow account. Respondent shall simultaneously transmit a copy of both checks to the OSC. Respondent shall ensure that the prevailing party or parties in the dispute shall receive the amount upon which they prevailed from the escrow funds plus interest within 20 calendar days after the



dispute is resolved.

#### **VIII. DISPUTE RESOLUTION**

The parties to this Order shall attempt to resolve, expeditiously and informally, any disagreements concerning this Order.

If the Respondent objects to any USEPA action taken pursuant to this Order, including billings for response costs, the Respondent shall notify USEPA in writing of their objection(s) within 10 calendar days of such action, unless the objection(s) has (have) been informally resolved. This written notice shall include a statement of the issues in dispute, the relevant facts upon which the dispute is based, all factual data, analysis or opinion supporting Respondent's position, and all supporting documentation on which such party relies. USEPA shall submit its Statement of Position, including supporting documentation, no later than 10 calendar days after receipt of the written notice of dispute. In the event that these 10-day time periods for exchange of written documents may cause a delay in the work, they shall be shortened upon, and in accordance with, notice by USEPA. The time periods for exchange of written documents relating to disputes over billings for response costs may be extended at the sole discretion of USEPA.

An administrative record of any dispute under this Section shall be maintained by USEPA. The record shall include the written notification of such dispute, and the Statement of Position served pursuant to the preceding paragraph. Upon review of the administrative record, the Director of the Waste Management Division, USEPA Region 5, shall resolve the dispute consistent with the NCP and the terms of this Order.

Respondent's obligations under this Order shall not be tolled by submission of any objection for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, Respondent shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with USEPA's decision, whichever occurs.

#### **IX. FORCE MAJEURE**

Respondent agrees to perform all requirements under this Order within the time limits established under this Order, unless the performance is delayed by a force majeure. For purposes of this Order, a force majeure is defined as any event arising from causes beyond the control of Respondent or of any entity controlled by Respondent, including but not limited to their contractors and subcontractors, that delays or prevents performance of any obligation under this Order despite Respondent's best efforts to fulfill the obligation. Force majeure does not include financial inability to complete the work or increased cost of performance.

Respondent shall notify USEPA orally within 24 hours after Respondent become aware of any event that Respondent's contend constitutes a force majeure, and in writing within 7 calendar days after the event. Such notice shall: identify the event causing the delay or anticipated delay; estimate the anticipated length of delay, including necessary demobilization and re-mobilization; state the measures taken or to be taken to minimize the delay; and estimate the timetable for implementation of the measures. Respondent shall take all reasonable measures to avoid and minimize the delay. Failure to comply with the notice provision of this Section shall be grounds for USEPA to deny Respondent an extension of time for performance. Respondent shall have the burden of demonstrating by a preponderance of the evidence that the event is a force majeure, that the delay is warranted under the circumstances, and that best efforts were exercised to avoid and mitigate the effects of the delay.

If USEPA determines a delay in performance of a requirement under this Order is or was attributable to a force majeure, the time period for performance of that requirement shall be extended as deemed necessary by USEPA. Such an extension shall not alter Respondent's obligation to perform or complete other tasks required by the Order which are not directly affected by the force majeure.

#### **X. STIPULATED AND STATUTORY PENALTIES**

For each day, or portion thereof, that Respondent fails to fully perform any requirement of this Order in accordance with the schedule established pursuant to this Order, Respondent shall be liable as follows:

\$100.00 per day for the first 3 days, \$1,000.00 per day for the next 7 days, and \$3,000.00 per day thereafter.

Upon receipt of written demand by USEPA, Respondent shall make payment to USEPA within 20 days and interest shall accrue on late payments in accordance with Section VII of this Order (Reimbursement of Costs).

Even if violations are simultaneous, separate penalties shall accrue for separate violations of this Order. Penalties accrue and are assessed per violation per day. Penalties shall accrue regardless of whether USEPA has notified Respondent of a violation or act of noncompliance. The payment of penalties shall not alter in any way Respondent's obligation to complete the performance of the work required under this Order. Stipulated penalties shall accrue, but need not be paid, during any dispute resolution period concerning the particular penalties at issue. If Respondent prevails upon resolution, Respondent shall pay only such penalties as the resolution requires.

Violation of any provision of this Order may subject Respondent to

civil penalties of up to twenty-five thousand dollars (\$25,000) per violation per day, as provided in Section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1). Respondent may also be subject to punitive damages in an amount up to three times the amount of any cost incurred by the United States as a result of such violation, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Should Respondent violate this Order or any portion hereof, USEPA may carry out the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, and/or may seek judicial enforcement of this Order pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606.

#### **XI. RESERVATION OF RIGHTS**

Except as specifically provided in this Order, nothing herein shall limit the power and authority of USEPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent USEPA from seeking legal or equitable relief to enforce the terms of this Order. USEPA also reserves the right to take any other legal or equitable action as it deems appropriate and necessary, or to require the Respondent in the future to perform additional activities pursuant to CERCLA or any other applicable law.

#### **XII. OTHER CLAIMS**

By issuance of this Order, the United States and USEPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondent. The United States or USEPA shall not be a party or be held out as a party to any contract entered into by the Respondent or its directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out activities pursuant to this Order.

Except as expressly provided in Section XIII (Covenant Not To Sue), nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against the Respondent or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106(a) or 107(a) of CERCLA, 42 U.S.C. §§ 9606(a), 9607(a).

This Order does not constitute a preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2). The Respondent waives any claim to payment under Sections 106(b), 111, and 112 of CERCLA, 42 U.S.C. §§ 9606(b), 9611, and 9612, against the United States or the Hazardous Substance Superfund arising out

of any action performed under this Order.

No action or decision by USEPA pursuant to this Order shall give rise to any right to judicial review except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

#### **XIII. COVENANT NOT TO SUE**

Except as otherwise specifically provided in this Order, upon issuance of the USEPA notice referred to in Section XVII (Notice of Completion), USEPA covenants not to sue Respondent for judicial imposition of damages or civil penalties or to take administrative action against Respondent for any failure to perform removal actions agreed to in this Order except as otherwise reserved herein.

Except as otherwise specifically provided in this Order, in consideration and upon Respondent payment of the response costs specified in Section VIII of this Order, USEPA covenants not to sue or to take administrative action against Respondent under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for recovery of past and future response costs incurred by the United States in connection with this removal action or this Order. This covenant not to sue shall take effect upon the receipt by USEPA of the payments required by Section VII (Reimbursement of Costs).

These covenants not to sue are conditioned upon the complete and satisfactory performance by Respondent of its obligations under this Order. These covenants not to sue extend only to the Respondent and do not extend to any other person.

#### **XIV. CONTRIBUTION PROTECTION**

With regard to claims for contribution against Respondent for matters addressed in this Order, the Parties hereto agree that the Respondent is entitled to protection from contribution actions or claims to the extent provided by Section 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4).

Nothing in this Order precludes Parties from asserting any claims, causes of action or demands against any persons not parties to this Order for indemnification, contribution, or cost recovery.

#### **XV. INDEMNIFICATION**

Respondent agrees to indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action: (A) arising from, or on account of, acts or omissions of Respondent and Respondent's officers, heirs, directors, employees, agents, contractors, subcontractors, receivers, trustees, successors or assigns, in carrying out actions pursuant to this

Order; and (B) for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Respondent, and any persons for performance of work on or relating to the Site, including claims on account of construction delays. Nothing in this Order, however, requires indemnification by Respondent for any claim or cause of action against the United States based on negligent action taken solely and directly by USEPA (not including oversight or approval of plans or activities of the Respondent).

#### **XVI. MODIFICATIONS**

Modifications to any plan or schedule may be made in writing by the OSC or at the OSC's oral direction. If the OSC makes an oral modification, it will be memorialized in writing within 7 business days; however, the effective date of the modification shall be the date of the OSC's oral direction. Any other requirements of this Order may be modified in writing by mutual agreement of the parties.

If Respondent seeks permission to deviate from any approved plan or schedule, Respondent's Project Coordinator shall submit a written request to USEPA for approval outlining the proposed modification and its basis.

No informal advice, guidance, suggestion, or comment by USEPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondent shall relieve Respondent of their obligations to obtain such formal approval as may be required by this Order, and to comply with all requirements of this Order unless it is formally modified.

#### **XVII. NOTICE OF COMPLETION**

When USEPA determines, after USEPA's review of the Final Report, that all work has been fully performed in accordance with this Order, except for certain continuing obligations required by this Order (e.g., record retention, payment of costs), USEPA will provide notice to the Respondent. If USEPA determines that any removal activities have not been completed in accordance with this Order, USEPA will notify the Respondent, provide a list of the deficiencies, and require that Respondent modify the Work Plan if appropriate to correct such deficiencies. The Respondent shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the USEPA notice. Failure to implement the approved modified Work Plan shall be a violation of this Order.

#### **XVIII. SEVERABILITY**

If a court issues an order that invalidates any provision of this Order or finds that Respondent has sufficient cause not to comply

with one or more provisions of this Order, Respondent shall remain bound to comply with all provisions of this Order not invalidated by the court's order.

**XIX. EFFECTIVE DATE**

This Order shall be effective upon signature by the Director, Waste Management Division, USEPA Region 5.

**EXPLANATIONS**

Each undersigned representative of a signatory to this Administrative Order on Consent certifies that he or she is fully authorized to enter into the terms and conditions of this Order and to bind such signatory, its directors, officers, employees, agents, successors and assigns, to this document.

Agreed this 2nd day of September, 1994.

Respondent Name Robich, Inc, (formerly Orbison Inc.)

Name (print) Thomas Cooper

Signature 

Title/Relation to Respondent President

IT IS SO ORDERED AND AGREED

BY: \_\_\_\_\_

*Wm. E. Muno*  
William E. Muno, Director  
Waste Management Division  
United States  
Environmental Protection Agency  
Region 5

DATE: \_\_\_\_\_

*9/20/84*



ATTACHMENT A  
RESPONDENTS

Bobick, Inc. (formerly Orbitron Industries, Inc.)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

EMERGENCY RESPONSE BRANCH

9311 GROH ROAD, ROOM 216  
GROSSE ILE, MI 48138-1697

RECEIVED

SEP 14 1994 AM 9:17

OHIO E.P.A.  
N.W.D.O.

REPLY TO ATTENTION OF

AUG 17 1994

MEMORANDUM

SUBJECT: ACTION MEMORANDUM - Request to Conduct a Time-Critical Removal Action at the Orbitron Industries, Inc., Site, Delphos, Allen County, Ohio (Site ID# XQ)

FROM: Steven L. Renninger, On-Scene Coordinator *Renninger, for*  
Emergency and Enforcement Response Branch - Section 1

TO: Jodi L. Traub, Acting Associate Division Director  
Office of Superfund

THRU: Richard Karl, Chief *R. Karl*  
Emergency and Enforcement Response Branch

I. PURPOSE

The purpose of this memorandum is to request and document approval to expend up to \$237,520 to abate an imminent and substantial threat to public health and the environment posed by the presence of corrosive, ignitable, and oxidizer wastes and hazardous substances in abandoned drums at the Orbitron Industries site in Delphos, Allen County, Ohio.

The response action proposed herein will mitigate threats to public health, welfare, and the environment posed by the presence of uncontrolled hazardous substances located at the site. Proposed removal actions include assessment of the chemical hazards on the site, securing the site to prevent public access, stabilization, characterization, removal, and off-site disposal of all abandoned drums and containers, and associated contents, including hazardous substances and any pollutants and contaminants at the site posing an imminent and substantial endangerment to the public health or welfare or the environment. The open and/or deteriorated condition of abandoned drums and containers containing hazardous substances, corrosives, ignitables, and oxidizers, the site spill history, and the site's proximity to residential areas require that this removal be classified as time critical. The project will require an estimated 20 days to complete.

This site is not on the National Priorities List.

## II. SITE CONDITIONS AND BACKGROUND

CERCLIS ID # OHD 982 220 626

The proposed removal action at the Orbitron Industries site is time critical. The Orbitron site is located at 901 South Main Street, Delphos, Allen County, Ohio. The site is approximately a 7-acre property that contains a 100,000-square-foot building. The site is immediately bordered to the north by residential areas, to the south and east by industrial facilities, and to the west by South Main Street and residential areas.

The Orbitron site consists of a 100,000-square-foot building, an oil/solvent storage building, a metal shed, four pole barns, and a loading dock area. The main building occupies the vast majority of the site property, with the remaining area covered with grass or asphalt. The east perimeter of the main building area is fenced, the remaining areas have unrestricted access including vandalized doors in the main building and an oil/solvent storage building.

Orbitron Industries operated the site facility until 1993 engaging primarily in the production of plastic tanks and containers. The Orbitron site has been vacant and for sale since late 1993.

On January 11, 1994, the Delphos Fire Department (DFD) responded to a water main break at the vacant Orbitron site. DFD stabilized the water break and observed numerous abandoned drums throughout the site.

On June 2, 1994, the Ohio Environmental Protection Agency's (OEPA) Emergency Response On-Scene Coordinator (OSC), Mike Gerber, and DFD Chief, Wayne Suever, responded to a drum spill at the vacant Orbitron site. OEPA and DFD documented three leaking drums at the south pole barn releasing substances across a gravel driveway into surrounding soil. DFD stabilized the spill with the installation of an earthen dike. Upon notification, an Orbitron contractor overpacked the three leaking drums and containerized additional contaminated soil. During the June 2, 1994, spill response, OEPA observed approximately 125 abandoned drums on site, many labeled "hazardous waste", "corrosive", "flammable", and "oxidizer".

On July 5, 1994, OEPA, Division of Hazardous Waste Management's (DHWM) issued a Notice of Violation to Orbitron Industries setting forth the determination that Orbitron was in violation of State hazardous waste regulations and ordering Orbitron to conduct detailed analytical tests on substances present at the site and mitigate the threat to human health and the environment posed by open drums at the site.

On July 5, 1994, OEPA DHWM requested the United States Environmental Protection Agency's (U.S. EPA) assistance in stabilizing abandoned drums and containers at the Orbitron site.

On July 19, 1994, U.S. EPA OSC Steve Renninger and Technical Assistance Team (TAT) members conducted a site investigation at the Orbitron site. During the U.S. EPA investigation, the OSC observed approximately 207 abandoned drums and containers distributed throughout the site. Access to the Orbitron site is unrestricted, and the site is adjacent to residential and industrial areas. Air monitoring and drum label information indicated that the drums and containers contained acids, caustics, solvents, oils, oxidizers, and lab chemicals, with many of the drums in open or deteriorated condition. Drums were noted to have leaked or spilled waste throughout the facility. Drums throughout the facility were documented as open with labels indicating "used solvent" and "used MEK" (methyl ethyl ketone). Access to drum and container areas is unrestricted.

Conditions at the Orbitron site includes drum and container areas within and outside the Orbitron facility. Abandoned drum and container areas includes main building, loading dock, pole barn, and oil/solvent storage building. The Orbitron site is immediately bordered by residential areas to the north perimeter. During the July 19, 1994, U.S. EPA site investigation, the OSC noted children trespassing the Orbitron site to gain access to adjacent residential areas. Children were also observed playing within 75 feet of the abandoned drum and container areas.

Sample results from the July 19, 1994, U.S. EPA site investigation indicated the presence of corrosive and ignitable waste streams. The TAT collected eight drum samples for laboratory analysis. Laboratory analysis of drum sample OS-006 (pH = 2.08) was documented to contain corrosive waste with a pH < 2.5. Laboratory analysis of drum samples OS-001 and OS-005A (flash point < 70 degrees F), OS-002 (flash point = 93 degrees F), OS-003 (flash point = 95 degrees F), OS-004 (flash point = 103 degrees F) were documented to contain ignitable waste with flash point < 140 degrees F. Laboratory analysis of drum sample OS-003 was documented to contain > 99 percent xylene. Field testing conducted by the TAT confirmed the presence of oxidizer waste in additional drum areas.

### III. THREATS TO PUBLIC HEALTH OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES

The conditions at the Orbitron site present an imminent and substantial threat to human health, welfare and the environment and meet the criteria for a removal action as stated in the National Contingency Plan (NCP), Section 300.415(b)(2), specifically:

a) Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants;

The Orbitron site is unsecured and subject to unauthorized access. Residential areas are situated nearby and children have been observed playing within 75 feet of the abandoned drums. Considering the unrestricted access to the open and/or deteriorated hazardous substances (i.e., xylene), corrosive, ignitable, and oxidizer drums and containers on site, the potential for direct exposure to human and animal populations exists. During the July 19, 1994, U.S. EPA site investigation, drums were documented to contain corrosive (pH=2.08), ignitable (xylene, flash point < 70 degree F), and oxidizer wastes as well as hazardous substances (e.g., xylene). Many drums were open or deteriorated due to weather conditions or vandalism. Also, the site has a history of trespassing and vandalism.

b) Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers that may pose a threat of release;

During the July 19, 1994, U.S. EPA site investigation, the OSC observed abandoned drums containing corrosive, ignitable, and oxidizer waste streams as well as hazardous substances (i.e., xylene) to be open and in varying stages of deterioration, some having spilled contents creating incompatible situations including acids/caustics. During the July 19, 1994, site investigation, the OSC observed open drums containing xylene and waste solvents adjacent to broken and suspected vandalized doors of the oil/solvent storage building. The OSC observed ignitable drums staged in an outdoor pole barn to be deteriorated and bulging, posing a threat of release. Many drums were marked hazardous and other "used solvent" and "MEK".

c) Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released;

During the July 19, 1994, U.S. EPA site investigation, the OSC noted that weather conditions have affected the integrity of the drums to date. Many of the drums were open, rusted, or bulging due to temperature extremes and precipitation events. Further exposure to weather conditions will cause hazardous substances to be released.

d) Threat of fire or explosion;



The Orbitron site contains approximately 207 abandoned surficial drums and containers. Drum and container samples obtained by TAT during the July 19, 1994, site investigation documented contents as ignitable wastes, including xylene, with a flash point of < 70 degrees F. Therefore, the potential for a explosion exists, and if such an event occurs, contaminants could become airborne and may affect the nearby population.

#### IV. ENDANGERMENT DETERMINATION

Given the site conditions with unrestricted access and uncontrolled wastes, the nature of the hazardous substances on site - corrosive, ignitable, and oxidizer wastes and the potential exposure pathways to nearby populations and environment described in Sections II and III above, actual or threatened releases of hazardous substances from this site, if not addressed by implementing the response actions selected in this Action Memorandum, may present an imminent and substantial endangerment to public health, or welfare, or the environment.

#### V. PROPOSED ACTIONS AND ESTIMATED COSTS

The OSC proposes to undertake the following actions to mitigate threats posed by the presence of hazardous wastes at the Orbitron site:

- 1) Develop and implement a site health and safety plan;
- 2) Establish site security;
- 3) Identify, inventory, and characterize all surface drums and containers, associated contents, and associated contaminated soils, including hazardous substances and any pollutants and contaminants posing an imminent and substantial endangerment;
- 4) Stabilization and off-site disposal of all surface drums and containers, associated contents, and associated contaminated soils, including hazardous substances and any pollutants and contaminants posing an imminent and substantial endangerment. Disposal will be consistent with the U.S. EPA Off-Site Rule (58 F.R. 49200).

The removal action will be taken in a manner not inconsistent with the NCP. The OSC has initiated planning for provision of post-removal site control, consistent with the provisions of Section 300.415(k) of the NCP. Elimination of all surface threats during this removal action is, however, expected to minimize the need for post-removal site control.

The response actions described in this memorandum directly address actual or threatened releases of hazardous substances,

pollutants, or contaminants at the site which may pose an imminent and substantial endangerment to public health and safety and to the environment. These response actions do not impose a burden on the affected property disproportionate to the extent to which that property contributes to the conditions being addressed.

The estimated costs to complete the above activities are summarized below. These activities will require an estimated 20 on-site working days to complete. Detailed cleanup contractor costs are presented in Attachment 1.

#### REMOVAL PROJECT CEILING ESTIMATE

##### EXTRAMURAL COSTS:

Cleanup Contractor Costs	\$120,000
Contingency (15%)	<u>18,000</u>
Subtotal	\$138,000
Total TAT, including multiplier	<u>40,000</u>
Extramural Subtotal	\$178,000
Extramural Contingency (20%)	<u>36,000</u>
TOTAL, EXTRAMURAL COSTS	\$214,000

##### INTRAMURAL COSTS:

U.S. EPA Direct Costs	
\$30 x (240 Regional hours plus 24 HQ hours)	\$7,920
U.S. EPA Indirect Costs	
(\$65 x 240 Regional hours)	<u>15,600</u>
TOTAL, INTRAMURAL COSTS	\$23,520
TOTAL REMOVAL PROJECT CEILING ESTIMATE	\$237,520

All applicable or relevant and appropriate requirements (ARARs) of Federal and State law will be complied with to the extent practicable. A letter has been sent to James Ottarson of the OEPA requesting that it identify State ARARs. Any State ARARs identified in a timely manner for this removal action will be complied with to the extent practicable.

**VI. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN**

Delayed or non-action may result in an increased likelihood of direct contact threat to human or wildlife populations accessing the site.

**VII. OUTSTANDING POLICY ISSUES**

There are no outstanding policy issues associated with this site.

**VIII. ENFORCEMENT**

For administrative purposes, information concerning the enforcement strategy for this site is contained in an Enforcement Confidential Addendum.

**IX. RECOMMENDATION**

This decision document represents the selected removal action for the Orbitron site in Delphos, Ohio, developed in accordance with CERCLA as amended, and not inconsistent with the NCP. This decision is based on the Administrative Record for the site. Conditions at the site meet the NCP section 300.415(b)(2) criteria for a removal and I recommend your approval of the proposed removal action. The total project ceiling, if approved, will be \$237,520. Of this, an estimated \$174,000 may be used for cleanup contractor costs. You may indicate your decision by signing below.

APPROVE: \_\_\_\_\_

Associate Division Director  
Office of Superfund

DATE: 17 Aug 94

DISAPPROVE: \_\_\_\_\_

Associate Division Director  
Office of Superfund

DATE: \_\_\_\_\_

Confidential Enforcement Addendum

Attachments:

1. Detailed Cleanup Contractor Estimate
2. Administrative Record Index

cc: E. Watkins, U.S. EPA, 5202-G  
D. Henne, U.S. Department of the Interior  
J. Carlson, Ohio Environmental Protection Agency

bcc: A. Baumann, HSRL-5J  
R. Powers, HSE1-G  
R. Karl, HSE-5J  
J. Cisneros, HSE-5J  
L. Fabinski, ATSDR, HSRL-5J  
O. Warnsley, CRS, HSRLT-5J  
T. Lesser, P-19J  
D. Crume, MF-10J  
EERB Read File (L. Taylor)  
EERB Delivery Order File (M.E. Gustafson)  
EERB Site File (E. Brenneman, WMD Records Center, 7th Flr)  
Contracting Officer, MC-10J  
S. Renninger, SE-W  
M. Anastasio, CS-29A  
D. Dawley, HSE-5J

**ENFORCEMENT CONFIDENTIAL ADDENDUM  
ORBITRON INDUSTRIES, INC. SITE  
DELPHOS, ALLEN COUNTY, OHIO  
AUGUST 1994**

Non-Responsive





ATTACHMENT 1

DETAILED CLEANUP CONTRACTOR ESTIMATE  
ORBITRON INDUSTRIES, INC., SITE  
DELPHOS, ALLEN COUNTY, OHIO

AUGUST, 1994

Personnel and Equipment	\$50,000
Materials	10,000
Sampling and Analysis	10,000
Transportation and Disposal	<u>50,000</u>
TOTAL	\$120,000

ATTACHMENT II

U.S. ENVIRONMENTAL PROTECTION AGENCY  
REMOVAL ACTION

ADMINISTRATIVE RECORD  
FOR  
ORBITRON SITE  
DELPHOS, OH

August 11, 1994

<u>DATE</u>	<u>AUTHOR</u>	<u>RECIPIENT</u>	<u>TITLE/DESCRIPTION</u>	<u>PAGES</u>
01/11/94	Martin, P., Delphos Fire Dept.	File	Incident Report	1
06/02/94	Gerber, M., OEPA	File	Investigation Report 6/2/94 Drum Spill	6
07/05/94	Ottarson, J., OEPA	Cooper, T., Orbitron	Notice of Violation	2
00/00/00	Ecology & Environment, Inc.	U.S. EPA	TAT Site Investigation (Pending)	
00/00/00	Renninger, S., U.S. EPA	Muno, W., U.S. EPA	Action Memorandum (Pending)	

DATE: October 17, 1994  
FROM: Steve Renninger, OSC, U.S. EPA, Region V EERB,  
Westlake, OH ..... (ERU/REGV)

TO: D.Dietrich-Attn: E. Watkins, USEPA, OSWER, Wash. DC... (via fax)  
R.Karl, USEPA, Chief, EERB, Chicago, IL..... (KARL.R)  
R.Powers, USEPA, EERB, Chief RS-1, Grosse Ile, MI... (ERU/REG.V)  
J.Cisneros, USEPA, EERB, Chief ESS, Chicago, IL..... (via fax)  
M.McCue-Attn: Larry Leveque, Ofc. Pub. Aff., Chicago, IL (via fax)  
D.Dawley, EERB, ESS, HSE-5J, Chicago, IL..... (via fax)  
M.Anastasio, ORC, CS-3T, Chicago, IL..... (via fax)  
J.Ottarson, Ohio EPA, Bowling Green, OH..... (via fax)  
W.Suever, Chief, Delphos Fire Dept., Delphos, OH..... (via fax)  
T.Tilson, Allen County EMA, Lima, OH..... (via fax)

SUBJECT: Orbitron PRP Removal Action, Delphos, Allen County, Ohio

POLREP No. 1 (INITIAL)

SITE ID: XQ

RESPONSE AUTHORITY: CERCLA

CERCLA Incident Category: Site

NPL STATUS: None

START DATE: October 13, 1994

COMPLETION DATE:

1. SITUATION:

The PRP removal action at the Orbitron site was initiated on October 13, 1994.

Weather:	October 13, 1994	60° F	Partly Cloudy
	October 14, 1994	66° F	Partly Cloudy
	October 17, 1994	70° F	Sunny

A. The Orbitron site is located at 901 South Main Street in Delphos, Allen County, Ohio. The site consists of a 200,000 ft<sup>2</sup> main building, five smaller buildings, and four pole barns. The facility is located in a residential area of Delphos. On July 12, 1994, OEPA-NWDO requested assistance from U.S. EPA to stabilize abandoned drums at the Orbitron site.

B. On July 19, 1994, a U.S. EPA-led site assessment was conducted at the Orbitron site. OSC Renninger and the TAT documented unrestricted site access and approximately 210 drums and small containers scattered throughout the site. Drum sampling information indicated that the drums contained corrosive and flammable wastes.

2. ACTIONS TAKEN:

A. September 20, 1994 - Administrative Order by Consent (AOC) signed by U.S. EPA and PRPs for removal of abandoned hazardous waste in drums and containers.

B. October 7, 1994 - OSC Renninger approved PRP removal work plan dated October 5, 1994, from Cousins Waste Control.

- C. October 13, 1994 - On-site meeting w/ OSC, TAT, Delphos F.D. Chief Suever, Allen County EMA Director, and Cousins Waste Control to initiate on-site removal activities. Cousins Waste Control (CWC) initiates drum sampling, haz-cat, and drum staging. Drums segregated and staged in rear warehouse. Flammable wastestreams staged outdoors, adjacent to rear loading dock.
- D. October 14, 1994 - CWC continues drum staging and consolidation of wastestreams. On-site wastestreams include: corrosives, flammable liquid, flammable solid, PCB transformers, oxidizers, and neutral liquid.
- E. October 17, 1994 - Delphos F.D. Chief Seuver identifies two underground storage tanks on-site. CWC continues drum staging and consolidation.

3. PLANS:

- A. CWC to continue drum sampling and consolidation in preparation for off-site disposal of wastestreams.
- B. Continue TAT and Delphos F.D. oversight of CWC removal activities.
- C. CWC to initiate off-site disposal of wastestreams by November 14, 1994.

4. KEY ISSUES:

- A. Abandoned drums and containers inside and around buildings containing corrosive and flammable wastes.

5. STATUS:

- A. Case open.
- B. Estimated Costs: As of October 14, 1994

		BUDGETED	TOTAL TO DATE	REMAINING
TAT	\$	12,000	2,480	9,520
EPA	\$	5,000	420	4,580
	\$	<u>17,000</u>	<u>\$ 2,900</u>	<u>\$ 14,100</u>

73  
RECEIVED  
JAN 30 2006  
OHIO E.P.A.  
N.W.D.O.

Date: March 21, 1995  
Site: Orbitron site, Delphos, Allen County, Ohio  
From: Steve Remminger, OSC, U.S. EPA, Region V EERB, Westlake, OH,  
..... (ERU/REGV)

To: D.Dietrich-Attn: E.Watkins, USEPA, OSWER, WASH. DC... (via fax)  
R.Karl, USEPA, Chief, EERB, Chicago, IL..... (KARL.R)  
R.Powers, USEPA, EERB, Chief RS-1, Grosse Ile, MI.. (ERU/REG.V)  
J.Cisneros, USEPA, EERB, Chief ESS, Chicago, IL..... (via fax)  
M.McCue-Attn:Larry Leveque, Ofc.Pub.Aff., Chicago, IL (via fax)  
D.Dawley, EERB, ESS, HSE-5J, Chicago, IL..... (via fax)  
M.Anastasio, ORC, CS-3T, Chicago, IL..... (via fax)  
J.Ottarson, Ohio EPA, Bowling Green, OH..... (via fax)  
W.Seuver, Chief, Delphos Fire Dept., Delphos, OH..... (via fax)  
T.Tilson, Allen County EMA, Lima, OH..... (via fax)

Subject: Pollution Report for PRP Oversight

POLREP NO. 2 AND FINAL

II. BACKGROUND:

Site No:	XQ
Delivery Order No:	N/A
Response Authority:	CERCLA
CERCLA Incident Category:	Oversight
NPL Status:	None
Start Date:	10-13-94
Demobilization Date:	03-07-95
Completion Date:	03-21-95

III. SITE INFORMATION:

A. Incident Category - Oversight

B. Site Description

1. Location - The Orbitron site is located at 901 South Main Street in Delphos, Allen County, Ohio. The site consists of a 200,000 ft<sup>2</sup> main building, five smaller buildings, and four pole barns. The facility is located in a residential area of Delphos. On July 12, 1994, OEPA-NWDO requested assistance from U.S. EPA to stabilize abandoned drums at the Orbitron site.
2. Description of Threat - On July 19, 1994, a U.S. EPA-led site assessment was conducted at the site. OSC Remminger and the TAT documented unrestricted site access and approximately 210 leaking and deteriorating drums and small containers scattered throughout the site. These wastes posed threats to human health and the environment through fire and explosion, direct contact, inhalation, and ingestion routes of exposure.

C. Site Inspection Results

The July 19, 1994 U.S. EPA site inspection revealed the presence of drums containing corrosive and flammable wastes scattered throughout the facility. Drum samples collected indicated the presence of materials



which were corrosive, with pH values of 2 Standard Units; and ignitable, with flashpoints of < 70oF. Evidence that the site was frequented by vagrants was readily apparent.

#### IV. RESPONSE INFORMATION

##### A. Situation

###### 1. Current Situation

October 18, 1994 - TAT, Delphos Fire Chief, and ERCS completed consolidation and staging of on-site wastes. Currently, 60 drums of molding compound, 50 drums of flammable liquid and sludge, 5 drums of corrosive liquid, 1 drum of sodium nitrate, 35 drums of oil and water, and approximately 104 empty drums and containers. Two UST's are discovered on-site and inspected by BUSTR.

November 22, 1994 - Barry Cousins of Cousins Waste Control (CWC) informs U.S. EPA that his company is awaiting additional funding by PRP before disposal.

January 9, 1995 - CWC, TAT, and Chief Seuver arrive on-site to complete off-site transportation and disposal of drummed wastes, including corrosive liquids, paint wastes, sodium nitrate, oil and water, and empty drums.

February 7, 1995 - CWC submits report to U.S. EPA containing current disposal information (i.e manifests, summary letter, etc.), and chronicle of events. MSD sheets are submitted for non-hazardous waste. Three on-site transformers remained to be sampled.

March 7, 1995 - OEPA, CWC and TAT on-site to collect samples from three transformers to be analyzed for PCB's.

March 15, 1995 - TAT received transformer sampling results, all non-detect for PCB's.

##### B. Planned Activities

All activities at the site have been completed in accordance with the Administrative Order.

##### C. Next Steps

Preparation of the final report is underway.

##### D. Key Issues

Access to the site has been restricted. Wastes from abandoned drums and containers have been repackaged and transported off-site for proper disposal.

V. COST INFORMATION  
Costs through 03/20/95

	BUDGETED	TOTAL TO DATE	REMAINING
TAT	\$ 28,000	\$ 4,375	\$ 23,625
EPA DIRECT	\$ 7,920	\$ 1,200	\$ 6,720
EPA INDIRECT	\$ 12,720	\$ 2,600	\$ 10,120
Grand Total	\$ 48,640	\$ 8,175	\$ 40,465

The above accounting of expenditures is an estimate based on figures known to the OSC at the time this report was written. The OSC does not necessarily receive specific figures on final payments made to any contractor(s). Other financial data, which the OSC must rely upon, may not be entirely up-to-date. The cost accounting provided in this report does not necessarily represent an exact monetary figure which the government may include in any claim for cost recovery.

Wastestream	Medium	Quantity	Containment Migration Control	Treatment	Disposal
RQ Waste Corrosive Liquids	Liquid Wastes	86 gal	NA	Neutraliza- -tion	Chem-Met Services, Wyandotte,MI
RQ Waste Corrosive Liquid (NA/K Hydroxide)	Liquid Wastes	110 gal	NA		Chem-Met Services Wyandotte,MI
Waste Sodium Nitrate	Solid Waste	55 gal	NA		Chem-Met Services Wyandotte,MI
RQ Waste Paint related Material	Sludge/ Solvents	2750 gal	NA		Petro-Chem Processing Detroit,MI
RQ Hazardous Waste Liquid NOS (Cd,Pb)	Liquid Wastes	3300 gal	NA		Envotech Belleville,MI
Oil and Water	Liquid Wastes	1905 gal	NA		CWC / BBC Toledo, OH
Empty Drums	Solid Wastes	106 qty.	NA	Destruction	Columbus Steel Drum, Pontiac,MI

**DRAFT**

**LETTER REPORT  
FOR  
ORBITRON - FRP SITE  
DELPHOS, ALLEN COUNTY, OHIO  
TDD: T05-9408-019 / T05-9410-019  
FAX: BOH1042RAA / BOH1042RBA  
DOCUMENT CONTROL NUMBER: TAT-05-23-\*\*\*\*\***

**SEPTEMBER 30, 1995**

**Prepared for:  
Ms. Gail Nabasny  
Deputy Project Officer  
Emergency and Enforcement Response Branch  
Emergency Support Section  
U.S. EPA Region V**

**Contract Number: 68-WO-0037**

**Prepared by: \_\_\_\_\_ Date: \_\_\_\_\_**  
**Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_**  
**Approved by: \_\_\_\_\_ Date: \_\_\_\_\_**



**ecology and environment, inc.**

8777 ENGLE ROAD, CLEVELAND, OHIO 44130, TEL. (216) 243-3330  
International Specialists in the Environment

**DRAFT**

September \*\*, 1995

Ms. Gail Nabasny  
Deputy Project Officer  
Emergency Response Section  
Western Response Unit  
U.S. Environmental Protection Agency  
5th Floor  
77 West Jackson Street  
Chicago, Illinois 60604

RE: Orbitron - PRP site  
901 South Main Street  
Delphos, Allen County, Ohio  
TDD#: T05-9408-019 / T05-9410-019  
PAN#: EOH1042RAA / EOH1042RBA

Dear Ms. Nabasny:

On August 2, 1994, the Ecology and Environment, Inc., (E&E) Technical Assistance Team (TAT) was tasked by the United States Environmental Protection Agency (U.S. EPA) to conduct oversight of the removal of hazardous materials by the Personally Responsible Parties (PRP) at the site. The oversight was requested under Technical Directive Document (TDD) numbers T05-9408-019 and T05-9410-019 by On-Scene Coordinator (OSC) Steve Renninger. Tasks to be included under the TDD's included reviewing the PRP safety plan and work plan, documentation of the PRP cleanup, photo/video documentation, the overview of site safety, conduct QC sampling, and prepare an outline for an after action report.

The Orbitron site is located at 901 South Main Street in Delphos, Allen County, Ohio (Figure 1). The site consists of a 100,000 ft<sup>2</sup> main building, an oil house of 1320 ft<sup>2</sup>, sheds of 2400 and 3600 ft<sup>2</sup>, four pole barns, and a loading dock area (Figure 2). The main building is comprised of eleven smaller buildings (buildings 1-11 on Figure 2) which serve as production areas, tool rooms, and packaging areas as well as office and lounge space. Residences are located 50 feet to the north of the site. Local industries border the facility on the east and south perimeters. South Main Street and a large field border the facility on the west.

The main building occupies the vast majority of the site property, with the remaining area covered with grass or asphalt. The east perimeter of the main building area is fenced with a 6-foot chain link and barbed wire fence. The gate to this area is padlocked to prevent easy access to this portion of the facility.

**DRAFT****SITE BACKGROUND**

Orbitron, a daughter plant of Orbitron Industries, Inc., and currently known as Madison Technologies, Inc. of Mishawaka, Indiana, was a manufacturer of polyethylene (poly) drums and tanks until October of 1993. The property has since been for sale through Yocum Realty agent Frank Caprilla. The main building, sheds, and pole barns contain approximately 210 drums and containers. An inventory conducted by the Ohio EPA (OEPA), and later verified by the U.S. EPA, revealed the presence of flammable, reactive, and corrosive materials. Several of these drums were observed deteriorated, bulging and/or leaking their contents on to the ground.

On June 2, 1994, OSC Mike Gerber of the OEPA Northwest District Office (NWDO) met with Chief Wayne Seuver of the Delphos Fire Department (FD) at the Orbitron facility in response to leaking drums reported by the Allen County Emergency Management Department. Three 55-gallon drums containing an unknown black substance had leaked and migrated down gradient across a gravel/soil drive way on the south side of the facility. The Delphos FD installed an earthen dike around the spilled material to prevent further migration. OSC Gerber and Chief Seuver also observed areas on-site which contained asbestos and other containers labeled as flammable, oxidizing, and corrosive materials. Four empty drums marked radioactive were checked with the OEPA radiation meter and showed no readings over background levels.

That afternoon, OSC Gerber contacted Orbitron company representative Troy Walker who stated that the wastes at the old facility were going to be disposed of soon. He informed Gerber that Cousins Waste Control (Cousins) had already been contracted to arrange for this disposal and that Cousins had sampled some of the drums located inside the plant. However, Walker was not sure if the drums on the south side of the facility had been sampled. Gerber provided Walker with the names of two clean-up contractors who could assist Orbitron in cleaning the contaminated area. Orbitron hired Interdyne Clean-up Services (Interdyne) to respond to the site immediately. Before leaving the site, OSC Gerber met with Chris Cotterill of Interyne, who stated that he would have a crew out that day to clean up the spilled material.

The spill was cleaned up and contaminated materials were put into 55- and 85-gallon overpack drums and left on-site. However, due to the large number of drums and containers still remaining on-site, the OEPA contacted the U.S. EPA and requested assistance with the investigation of site conditions. On July 7, 1994, U.S. EPA OSC Steve Renninger tasked the TAT to conduct a site assessment at the Orbitron site.

**DRAFT**

On July 19, 1994, U.S. EPA and the TAT mobilized equipment and personnel to the Orbitron to conduct the site assessment. During their survey of the site, U.S. EPA and the TAT observed and documented unrestricted site access and approximately 210 leaking and deteriorating drums and small containers scattered throughout the site. The drums were determined to contain corrosive and flammable wastes. U.S. EPA determined that the waste held in the drums and containers posed threats to human health and the environment through fire and explosion, direct contact, inhalation and ingestion exposure routes. Details of the Orbitron site assessment can be found in the site assessment report written by the Ecology and Environment, Inc. (E&E), Technical Assistance Team (TAT) under TOD number T05-9407-003.

Based on Ohio EPA records and documentation collected during the July, 19, 1994 site assessment and Administrative Order of Consent (AOC) was assembled for the clean-up of the Orbitron site. On September 20, 1994, U.S. EPA and PRP Bobick, Inc. (formerly Orbitron Industries, Inc.) signed the AOC for the removal of abandoned hazardous waste in drums and containers at Orbitron. On October 7, 1994, OSC Renninger approved the PRP's removal work plan which was prepared by the PRP's clean-up contractor Cousins Waste Control Corporation (CWCC).

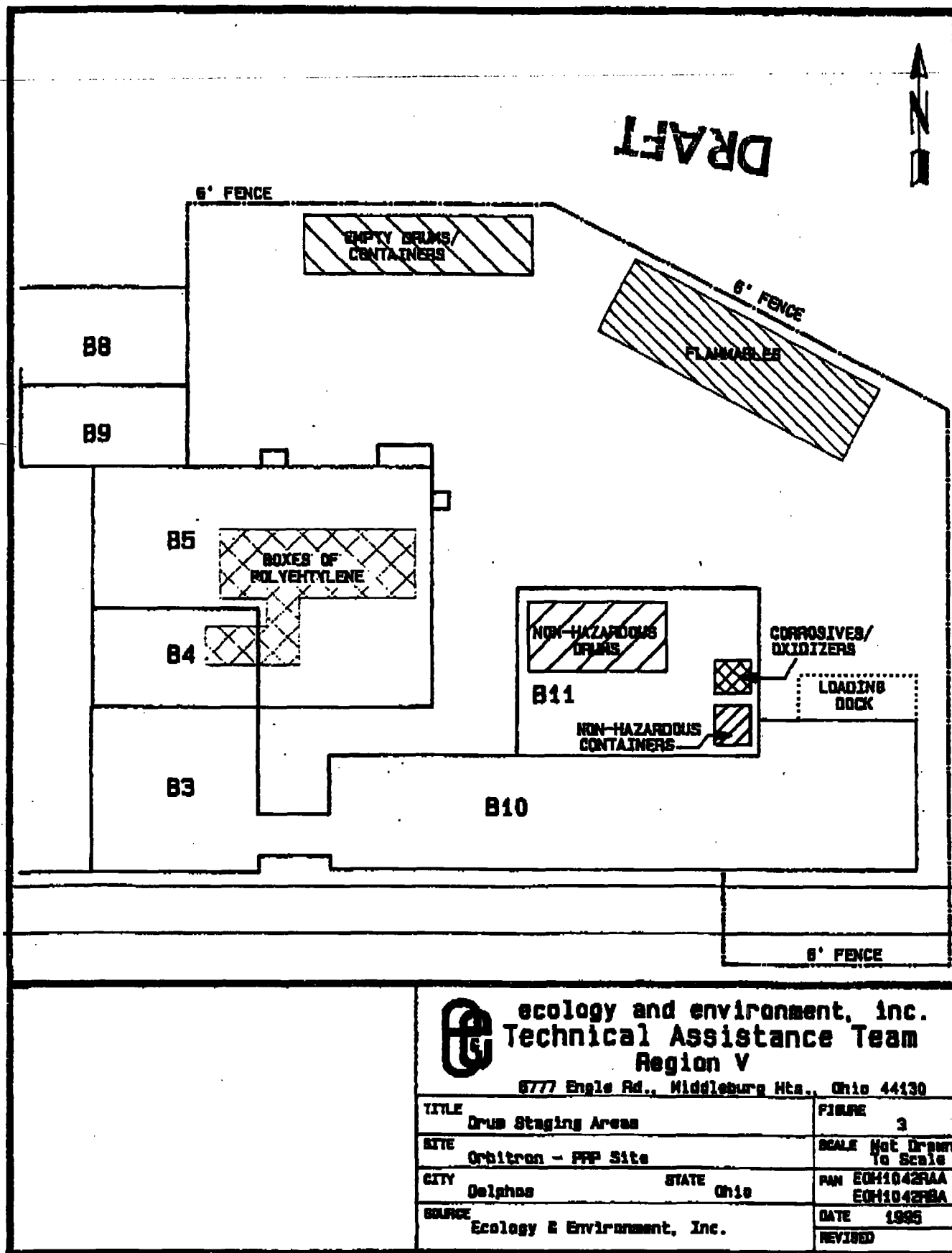
#### **SITE ACTIVITIES**

Removal actions were initiated at Orbitron on October 13, 1994. OSC Renninger, TAT Dachtler, City of Delphos Fire Department (Delphos FD) Chief Suever, Allen County Emergency Management Agency (EMA) Director Tom Tilson, and representatives for CWCC met to discuss health and safety issues and the removal strategy. Following the meeting, U.S. EPA, TAT, Delphos FD, Allen County EMA and CWCC surveyed the site to determine the locations of waste staging areas and to observe clean-up activities in progress.

On October 13, 1994, CWCC personnel immediately identified and contained all leaking materials. In addition, CWCC inventoried all drums and containers, began drum sampling, hazard categorization and drum staging. Drums and containers of waste were segregated and staged by wastestream behind the warehouse at the north end of the site. As a fire/explosion precaution, flammable wastestreams were staged outside the warehouse in a fenced-in area adjacent to the warehouse's rear loading dock. Figure 3 shows the staging areas designated for each waste streams. The collection, inventory and staging of drums and containers of waste continued through October 18, 1994.

On October 14, 1994, CWCC personnel began to repackage and consolidate wastes. Wastes from severely deteriorated drums were repackaged into drums suitable for shipping. Waste from totes, pails and assorted small containers (less than five gallons) were consolidated into 55-gallon drums of similar waste. CWCC used a





DRAFT

submersible pump to transfer non-hazardous liquids from open and/or deteriorated drums to shipping drums. Repackaging and consolidation of wastes continued through October 18, 1994.

On October 17, 1994, two 1500-gallon underground storage tanks were unearthed on the west side of the facility. Larry Horstman, Fire Inspector, Bureau of Underground Storage Tank Regulations (BUSTR) was on site on October 18, 1994 to inspect the tanks and determine if the tanks were under BUSTR's jurisdiction. The tanks were determined to contain heating oil and therefore, outside BUSTR's jurisdiction.

On October 18, 1994, CWCC completed the repackaging and consolidation of wastes and the restaging of drums. In addition, they initiated the labeling of drums in preparation for transportation and off-site disposal. In total, CWCC collected 50 drums of flammable liquid and sludge, 35 drums of oil and water, 1 drum of sodium nitrate, 5 containers of corrosive liquids, 106 empty drums and 60 drums of waste PVC molding compound. Final transportation and disposal of these wastes occurred on January 9, 1995 and February 6, 1995. Table 1 shows details of the wastes disposed.

If you have any questions or need additional information, please feel free to contact me.

Very truly yours,

ECOLOGY & ENVIRONMENT, INC.  
Region V, Technical Assistance Team

Sylvia J. Wong  
Biologist

cc: Steve Renninger, USEPA, Westlake, Ohio  
Tom Kouris, TATL, Region V, Chicago, Illinois

## ATTACHMENT D



**Attorney General  
Betty D. Montgomery**

July 30, 1996

CT Corporation System  
1 North Capitol  
Indianapolis, Indiana 46204

**Subject: Bobick, Inc. (formally known as Orbitron Industries, Inc.),  
Delphos, Ohio**

Dear Sir or Madame:

The Ohio Environmental Protection Agency has asked the Attorney General to file suit against Bobick, Inc., formally known as Orbitron Industries, Inc., and other responsible parties for ongoing violations of Ohio's hazardous waste laws at the former Orbitron facility in Delphos, Ohio. It is the policy of this office to provide businesses and individuals with the opportunity to resolve their problems with the State prior to our filing a lawsuit. In accordance with this policy, we are willing to negotiate an agreement to be written in a consent order filed in the Court of Common Pleas along with a complaint.

If you wish to take advantage of this offer to negotiate, we ask that you call or write by August 7, 1996. If we do not hear from you by that date, we will assume you do not wish to negotiate. If you indicate your desire to negotiate, we will proceed to schedule a meeting and send you a draft consent order to initiate discussion of the issues.

Please understand that we cannot continue negotiations indefinitely before filing. Therefore, once the issues for negotiations have been clearly defined, we will notify you of the date by which we expect to conclude settlement discussions.

We look forward to hearing from you.

Sincerely,



Luann L. Hoover  
John K. McManus  
Assistant Attorneys General  
Environmental Enforcement Section  
30 East Broad Street 25th Floor  
Columbus, Ohio 43215-3428  
(614) 466-2766

cc: Chris Jones, Chief, Environmental Enforcement Section  
Bryan Zima, Assistant Chief, Environmental Enforcement Section  
Jeanette Smith, OEPA, DHWM  
Catherine Stroup, OEPA, Legal  
Jim Ottarson, OEPA, NWDO







**Attorney General  
Betty D. Montgomery**

**RECEIVED**

**OCT 02 1998**

**OHIO E.P.A.  
N.W.D.O.**

**M E M O R A N D U M**

**TO:** Jeanette Smith, OEPA-DHWM-CO  
Jim Kavalec, OEPA-DHWM-NWDO

**CC:** Bryan Zima  
Lori Massey  
Catherine Stroup

**FROM:** Luann Hoover, AAG-EES *LA*

**DATE:** September 29, 1998

**RE:** Bobick, Inc./Orbitron Industries, Inc.

Attached please find the Consent Order, signed by Judge Warren and filed on September 25, 1998 in the Allen County Court of Common Pleas. Also attached is the Complaint, filed on September 24, 1998.

Please review Section V of the Consent Order so that you are aware of the dates by which Bobick, Inc. must complete the work or submit documents.

LLH/arc

State Office Tower / 30 East Broad Street / Columbus, Ohio 43215-3428

[www.ag.state.oh.us](http://www.ag.state.oh.us)

An Equal Opportunity Employer

IN THE COURT OF COMMON PLEAS  
ALLEN COUNTY, OHIO

STATE OF OHIO, ex rel.  
BETTY D. MONTGOMERY  
ATTORNEY GENERAL OF OHIO

Plaintiff,

vs.

BOBICK, INC.,  
f.k.a. Orbitron Industries, Inc.

Defendant.

CASE NO.

JUDGE

**CV 98 09 0593**  
**WARREN**

COMMON PLEAS COURT  
FILED  
98 SEP 25 AM 10:04  
ANNE E. GEIGER  
CLERK OF COURTS  
ALLEN COUNTY, OHIO

**CONSENT ORDER AND FINAL JUDGMENT ENTRY**

Plaintiff, State of Ohio, ex rel. Betty D. Montgomery, Attorney General of Ohio, having filed the Complaint in this action against Defendant Bobick to enforce Ohio's hazardous waste laws found in Chapter 3734 of the Revised Code and rules adopted thereunder; and Plaintiff and Defendant having consented to the entry of this Order;

**THEREFORE**, without trial or admission of any issue of law or of fact, and upon the consent of the parties hereto, it is hereby **ORDERED, ADJUDGED** and **DECREED** as follows:

**I. DEFINITIONS**

As used in this Consent Order:

**"Consent Order"** means this Consent Order and Final Judgment Entry and all appendices hereto. In the event of conflict between this Consent Order and any appendix, the Consent Order shall control.

**"Contractor"** means the individual(s), company or companies retained by or on behalf of Defendant to undertake and complete the work required by this Consent Order.

**"Defendant"** means Bobick, Inc. and Orbitron Industries, Inc.

**"Director"** means Ohio's Director of Environmental Protection.

**"Effective Date"** means the date the Allen County Court of Common Pleas enters this Consent Order.

**"Facility"** refers to the location where the alleged storage, disposal or other placement of hazardous waste was conducted by Defendant, which Facility is located at 901 South Main Street, Delphos, Allen County, Ohio.

**"Findings and Orders"** means the Final Findings and Orders of the Director of Ohio EPA issued on March 15, 1996.

**"Ohio EPA"** means the Ohio Environmental Protection Agency.

**"Ohio Admin. Code"** means the Ohio Administrative Code.

**"Plaintiff"** means the State of Ohio by and through the Attorney General of Ohio.

**"R.C."** means the Ohio Revised Code.

**"SAP"** means Sampling and Analysis Plan.

**"SAR"** means Sampling and Analysis Report.

## **II. JURISDICTION AND VENUE**

1. This Court has jurisdiction over the subject matter of this action, pursuant to R.C. Chapter 3734 and the rules adopted thereunder. This Court has jurisdiction over the parties. Venue is proper in this Court. The Complaint states a claim upon which relief can be granted.

## **III. PERSONS BOUND**

2. To the extent provided by Ohio Civil Rule 65(D), the provisions of this Consent Order shall apply to and be binding upon Plaintiff and Defendant, their agents, officers, employees, assigns, successors in interest and any person acting in concert or participation with them who receives actual notice of this Consent Order whether by personal service or otherwise. Defendant is ordered and enjoined to provide a copy of this Consent Order to each contractor it employs to perform work itemized herein. Nothing herein is intended to expand or limit the scope of Ohio Civil Rule 65(D). Nothing herein is intended to impose personal liability upon Scott Lefky for the past actions of Bobick, Inc. and/or Orbitron Industries, Inc. Plaintiff reserves all rights it has against Scott Lefky or any other person to the extent past actions of Bobick and/or Orbitron are attributable to Scott Lefky or any other person.

#### **IV. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS**

3. Except as otherwise provided in this Consent Order, compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability of Defendant to Plaintiff for all claims alleged in the Complaint.

4. Nothing in this Consent Order, including the imposition of stipulated civil penalties, shall limit the authority of the State of Ohio to:

- (a) Seek relief for claims or conditions not alleged in the Complaint;
- (b) Seek relief for claims or conditions alleged in the Complaint that occur after the entry of this Consent Order;
- (c) Enforce this Consent Order through a contempt action or otherwise for violations of this Consent Order;
- (d) Bring any action against Defendant or against any other person, under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. § 9601, et seq. and/or R.C. 3734.20 through 3734.27 to: (1) recover natural resource damages, and/or (2) order the performance of, and/or recover costs for any removal, remedial or corrective activities not conducted pursuant to the terms of this Consent Order;
- (e) Take any action authorized by law against Defendant or against any other person for remediation of contaminated ground water at or from the Facility, to the extent such ground water is not remediated through actions taken by Defendant pursuant to the terms of this Consent Order; and
- (f) Take any action authorized by law against any person, including Defendant, to eliminate or mitigate conditions at the Facility that may present an imminent threat to the public health or safety or the environment, and seek cost reimbursement for any such action.

## **V. INJUNCTIVE RELIEF**

5. Defendant is ordered and enjoined to comply with all applicable provisions of the Ohio hazardous waste laws and rules as set forth in R.C. Chapter 3734 and rules adopted thereunder, including but not limited to, Ohio Admin. Code Chapters 3745-50 through 3745-69.

6. Defendant is ordered and enjoined from storing or disposing of any hazardous waste without obtaining a hazardous waste permit issued by the Hazardous Waste Facility Board

7. Defendant is ordered and enjoined to ensure that the Facility is operated and maintained in accordance with the Findings and Orders issued by the Director on March 15, 1996, the terms of which are incorporated herein and made part of this agreement. (Attached as Appendix A).

8. Defendant shall determine the full extent of hazardous waste contamination in soil, and in ground water, if ground water is encountered, for the areas where hazardous wastes were stored or disposed of, including the following areas of alleged storage or disposal (See map, attached as Appendix B):

- (a) Pole barns 1 and 2 (PB1 and PB2);
- (b) Main building areas B1, B2, B3, B4, B5, B10, B11, B12, B13 (the oil house);
- (c) Loading dock area; and
- (d) Any other area in which hazardous waste was spilled or otherwise released and not fully recovered.

9. Within thirty (30) days after the effective date of this Consent Order, Defendant shall prepare and submit to Ohio EPA, at the addresses set forth in Section VII of this Consent Order, a Sampling and Analysis Plan ("SAP"). The SAP shall be in accordance with Ohio Admin. Code 3745-66-11(A) and (B) and 3745-66-14. The SAP shall describe the methods to be used to determine the nature and extent of any hazardous waste contamination, shall contain a schedule for the implementation of sampling and analysis of the areas where hazardous wastes were stored or disposed of, and shall include a Quality Assurance Plan ("QAP").

10. The SAP is subject to Ohio EPA review and approval. In the event that Ohio EPA does not concur with the SAP submitted by Defendant and provides a written statement of the deficiencies in the SAP, Defendant shall revise the SAP to address the stated deficiencies

within thirty (30) days after receipt of such a written statement from Ohio EPA. Ohio EPA may approve the SAP with modifications. If Ohio EPA modifies the revised SAP, the modified SAP shall become the approved SAP.

11. Within thirty (30) days after receipt of approval from Ohio EPA of the SAP, Defendant shall implement the approved SAP in accordance with the requirements of Ohio Admin. Code 3745-66-11(A) and (B) and 3745-66-14, and in accordance with the specifications and the approved schedule contained in the approved SAP.

12. Within thirty (30) days after completion of the work described in the approved SAP required by this Consent Order, Defendant shall submit to Ohio EPA a Sampling and Analysis Report ("SAR") that includes the laboratory analyses and evaluation of data and describes the type and extent of contamination, if any, found in the areas where hazardous wastes were stored or disposed of. If the evaluation of data within the SAR confirms that no hazardous waste contamination exists at the Facility, the SAR shall provide a conclusion with supporting justification that no remediation is needed. If the evaluation of data within the SAR indicates that remediation is necessary, the SAR shall include a Remediation Plan for the areas where hazardous waste contamination exists. The Remediation Plan shall meet the closure performance standards set forth in Ohio Admin. Code 3745-66-11(A) and (B) and shall comply with Ohio Admin. Code 3745-66-14 (See, Ohio EPA Closure Plan Review Guidance, dated September 1, 1993, incorporated herein by reference). The Remediation Plan shall contain a proposed schedule of implementation. Defendant shall submit the SAR and Remediation Plan to Ohio EPA as indicated in Section VI of this Consent Order.

13. The SAR and Remediation Plan are both subject to Ohio EPA review and approval. In the event that Ohio EPA does not concur with the evaluation of data within the SAR and/or does not concur with the Remediation Plan and provides a written statement of the deficiencies in the SAR and/or Remediation Plan, Defendant shall revise the SAR and/or Remediation Plan and/or further implement the SAP as needed to address the stated deficiencies of the SAR and/or Remediation Plan within thirty (30) days after receipt of such a written statement from Ohio EPA. Ohio EPA may approve the Remediation Plan with modifications. If Ohio EPA modifies the revised Remediation Plan, the modified Remediation Plan shall become the approved Remediation Plan.

14. Within sixty (60) days after receipt of approval from Ohio EPA of the Remediation Plan, Defendant shall implement the approved Remediation Plan in accordance with the requirements of Ohio Admin. Code 3745-66-11(A) and (B) and 3745-66-14, and in accordance with the specifications and the approved schedule contained in the approved Remediation Plan and any conditions attached to the approval.

15. If ground water is encountered at any time during the investigation or remediation activities provided in this Consent Order, Defendant shall determine the full extent of hazardous waste contamination in the ground water and the rate and direction of ground water migration, and perform any remediation necessary, to meet the closure performance standards of Ohio Admin. Code 3745-66-11(A) and (B) and Ohio EPA Closure Plan Review Guidance, dated September 1, 1993.

- (a) Within sixty (60) days after encountering ground water, Defendant shall submit to Ohio EPA, at the addresses set forth in Section VII of this Consent Order, a ground water investigation plan. The ground water investigation plan shall contain a schedule for implementation and is subject to Ohio EPA review and approval. Defendant shall revise the ground water investigation plan to address the deficiencies in the ground water investigation plan within thirty (30) days after receipt of a written statement of deficiencies from Ohio EPA. Ohio EPA may approve the ground water investigation plan with modifications. If Ohio EPA modifies the revised ground water investigation plan, the modified ground water investigation plan shall become the approved ground water investigation plan.
- (b) Within thirty (30) days after receipt of approval from Ohio EPA of the ground water investigation plan, Defendant shall implement the approved ground water investigation plan in accordance with the specifications and the schedule contained in the approved ground water investigation plan.
- (c) Within thirty (30) days after completion of the work described in the approved ground water investigation plan required by this Consent Order, Defendant shall submit to Ohio EPA a ground water investigation report



that describes the type and extent of ground water contamination, if any, found in the areas where hazardous wastes were stored or disposed of. If the report confirms that no hazardous waste contamination exists in the ground water, the report shall provide a conclusion with supporting justification that no remediation is needed. If the report indicates that remediation is necessary, the report shall include a remediation plan for the ground water contamination. The ground water remediation plan shall contain a proposed schedule of implementation. Defendant shall submit the ground water investigation report and remediation plan to Ohio EPA as indicated in Section VII of this Consent Order.

- (d) The ground water investigation report and remediation plan are both subject to Ohio EPA review and approval. Defendant shall revise the ground water investigation report and/or remediation plan and/or further implement the ground water investigation plan as needed to address any deficiencies of the ground water investigation report and/or remediation plan within thirty (30) days after receipt of a written statement of deficiencies from Ohio EPA. Ohio EPA may approve the ground water remediation plan with modifications. If Ohio EPA modifies the revised Remediation Plan, the modified Remediation Plan shall become the approved Remediation Plan.
- (e) Upon receipt of approval from Ohio EPA of the ground water remediation plan, Defendant shall implement the approved ground water remediation plan in accordance with the specifications and the schedule contained in the approved ground water remediation plan and any conditions attached to the approval.
- (f) Defendant shall certify completion of such investigation and remediation of encountered ground water with the certification specified in Paragraph (16) of this Consent Order (certification of sampling and analysis work).

16. Within thirty (30) days after completion of the work described in the approved Remediation Plan, Defendant shall submit to Ohio EPA, for review and approval, in accordance

with Section VII of this Consent Order, a certification that the sampling and analysis work has been conducted in accordance with the SAP and documented in the SAR and that the remediation work has been conducted in accordance with the specifications in the approved Remediation Plan. This certification shall be signed by Defendant and by an independent, qualified, registered professional engineer.

## **VII. SUBMITTAL OF DOCUMENTS**

17. All documents required to be submitted to Ohio EPA pursuant to this Consent Order shall be submitted to the following addresses, or to such addresses as Ohio EPA may hereafter designate in writing:

Director  
Ohio Environmental Protection Agency  
Division of Hazardous Waste Management  
P.O. Box 1049  
1800 WaterMark Drive  
Columbus, Ohio 43216-1049  
Attn: Jeanette Smith, Enforcement Section

Ohio EPA  
Northwest District Office  
347 North Dunbridge Road  
Bowling Green, Ohio 43402  
Attn: DHWM Group Leader

## **VIII. CIVIL PENALTY**

18. Provided the financial information that Defendant has given to Plaintiff completely and accurately represents Defendant's financial condition, the State will not seek a civil penalty from Defendant in the instant case. If the information does not completely and accurately represent Defendant's financial condition, the State reserves the right to seek a civil penalty from Defendant for the claims and conditions alleged in the Complaint.

## **IX. STIPULATED PENALTIES**

19. In the event that Defendant fails to comply with any requirement or deadline contained in this Consent Order or any requirement or deadline contained in any document

approved in accordance with this Consent Order, Defendant is liable for and shall pay stipulated penalties in accordance with the following schedule for each failure to comply:

- (a) For each day of each failure to comply with a requirement or deadline of this Consent Order, up to and including thirty (30) days--Five Hundred Dollars (\$500.00) per day for each requirement or deadline not met.
- (b) For each day of each failure to comply with a requirement or deadline of this Consent Order, from thirty-one (31) to sixty (60) days-- Seven Hundred Dollars (\$700.00) per day for each requirement or deadline not met.
- (c) For each day of each failure to comply with a requirement or deadline of this Consent Order, over sixty (60) days--One Thousand Dollars (\$1,000.00) per day for each requirement or deadline not met.

20. Any payment required to be made under the provisions of this Section of the Consent Order shall be made by delivering to Plaintiff, c/o Jena Suhadolnik or her successor at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, a cashier's or certified check or checks made payable to the order of "Treasurer, State of Ohio," for the appropriate amount within thirty (30) days after the date of the failure to meet the requirement or deadline of this Consent Order. The payment of the stipulated penalty shall be accompanied by a letter briefly describing the type of violation, deadline or requirement not met and the date upon which the violation of this Consent Order occurred. This penalty shall be deposited into the hazardous waste clean-up fund created by R.C. 3734.28.

21. The payment of stipulated penalties by Defendant and the acceptance of such stipulated penalties by Plaintiff pursuant to this Section shall not be construed to limit Plaintiff's authority to seek additional relief pursuant to R.C. Chapter 3734, including civil penalties under R.C. 3734.13, or to otherwise seek judicial enforcement of this Consent Order, for the same violation for which a stipulated penalty was paid or for other violations.

#### **X. COMPLIANCE WITH APPLICABLE LAWS, PERMITS AND APPROVALS**

22. All activities undertaken by Defendant pursuant to this Consent Order shall be undertaken in accordance with the requirements of all applicable federal, state and local laws, rules, regulations and permits. Defendant shall submit timely applications and requests for any such permits and approvals. Where such laws appear to conflict with the other requirements of this Consent Order, Defendant is ordered and enjoined to immediately notify Ohio EPA of the potential conflict. Defendant is ordered and enjoined to include in all contracts or subcontracts entered into for work required under this Consent Order, provisions stating that such contractors or subcontractors, including their agents and employees, shall perform all activities required by such contracts or subcontracts in compliance with all applicable laws and rules. This Consent Order is not a permit issued pursuant to any federal, state or local law or rule.

#### **XI. RETENTION OF JURISDICTION**

23. This Court shall retain jurisdiction of this action for the purpose of enforcing this Consent Order.

#### **XII. COSTS**

24. Defendant shall pay the court costs of this action.

#### **XIII. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK**

25. Upon signing of this Consent Order by the Court, the clerk is directed to enter it upon the journal. Within three (3) days of entering the judgment upon the journal, the clerk is directed to serve upon all parties notice of the judgment and its date of entry upon the journal in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and note the service in the appearance docket.

#### XIV. AUTHORITY TO ENTER INTO THE CONSENT ORDER

26. Each signatory for a corporation represents and warrants that he/she has been duly authorized to sign this document and so bind the corporation to all terms and conditions thereof, and that he/she submits with this Consent Order an authenticated and certified resolution from the corporation establishing that he/she is so empowered.

**IT IS SO ORDERED:**

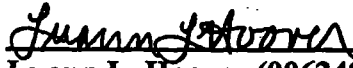
**[s] RICHARD K. WARREN**  
**JUDGE**  
**ALLEN COUNTY**  
**COURT OF COMMON PLEAS**

**Respectfully submitted,**

**Betty D. Montgomery**  
**Attorney General**

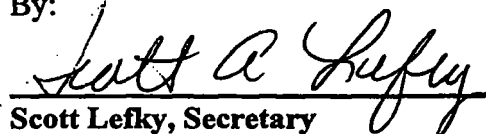
**Bobick, Inc.,**  
**f.k.a. Orbitron Industries, Inc.**

**By:**

  
**Luann L. Hoover (0062404)**  
**Lori A. Massey (0047226)**  
**Assistant Attorney General**  
**Environmental Enforcement Section**  
**30 East Broad Street, 25th Floor**  
**Columbus, Ohio 43215-3428**  
**Telephone: (614) 466-2766**  
**Facsimiles: (614) 644-1926/(614) 752-2441**

**Attorney for Plaintiff**  
**State of Ohio**

**By:**

  
**Scott Lefky, Secretary**  
**Bobick, Inc., f.k.a. Orbitron Industries, Inc.**  
**7873 East Gold Dust Avenue**  
**Scottsdale, Arizona 85258-1123**

**Authorized Representative for**  
**Bobick, Inc., f.k.a. Orbitron Industries, Inc.**

Issue Date: March 15, 1996

Effective Date: March 15, 1996

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Bobick, Inc. (fka Orbitron Industries, Inc.)	:	<u>Director's Final</u>
4101 Edison Lakes Parkway	:	<u>Findings and Orders</u>
Suite 160	:	
Mishawaka, Indiana 46545	:	

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Bobick, Inc. (fka Orbitron, Industries, Inc.) ("Bobick") pursuant to the authority vested in the Director of Environmental Protection under Sections 3734.13 and 3745.01 of the Ohio Revised Code ("ORC").

II. PARTIES BOUND

These Orders shall apply to and be binding upon Bobick, its assigns and successors in interest. No change in ownership relating to the Facility will in any way alter Bobick's responsibilities under these Orders. Bobick's obligations under these Orders may be altered only by the written approval of the Director of Environmental Protection.

OHIO E.P.A.

MAR 15 96

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Carvin Date 3-15-96

### III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in Chapter 3734. of the ORC and the regulations promulgated thereunder.

### IV. FINDINGS OF FACT

The Director of the Ohio Environmental Protection Agency has determined the following findings of fact:

1. Bobick owns and operated a plastic container manufacturing facility located at 901 South Main Street, Delphos, Allen County, Ohio ("Facility"). Bobick is an Indiana corporation located in Mishawaka, Indiana. On October 12, 1993, Orbitron Industries, Inc. ("Orbitron") changed the company's name to Bobick, Inc.
2. Orbitron was licensed to do business in the State of Ohio on June 28, 1986.
3. Bobick is a "person" as defined in Sections 1.59 and 3734.01(G) of the ORC and rule 3745-50-10(A)(83) of the Ohio Administrative Code ("OAC").
4. On November 16, 1987, Orbitron notified the United States Environmental Protection Agency ("U.S. EPA") of its hazardous waste activity at the Facility and was issued U.S. EPA Identification Number OHD982220626.
5. In the Fall of 1993, Orbitron ceased operations at the Facility, and abandoned materials and containers on site.

OHIO E.P.A.

MAR 15 96

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Gavin Date 3-15-96



6. On June 2, 1994, Ohio EPA responded to a complaint from the Delphos Fire Department of a spill at the Facility. An Orbitron contractor over packed three containers that were leaking their contents onto the soils. Ohio EPA observed numerous other abandoned drums labeled as hazardous waste throughout the Facility.
7. On June 3, 1994, Ohio EPA received a complaint regarding abandoned materials at the Facility. On June 3, 1994, Ohio EPA conducted an investigation at the Facility and found:
  - a. approximately two hundred seven (207) drums and containers of unknown waste at the Facility, many in poor condition, in the following locations: in two (2) open pole barns, outside on the loading dock, in several sheds, and in nine (9) locations inside the main building at the Facility;
  - b. the Facility was unsecured, and Ohio EPA observed children playing at the Facility and evidence of vandalism and trespassing on the grounds and inside Facility buildings; and
  - c. the nearest residence was located less than fifty feet from the Facility.
8. By letter dated July 8, 1994, Ohio EPA notified Orbitron that the company had failed to evaluate the waste at the Facility to determine if the waste was hazardous, as defined in OAC Chapter 3745-51, in violation of OAC rule 3745-52-11. The letter directed Orbitron to :
  - a. evaluate the waste at the Facility to determine if the waste was hazardous waste;
  - b. submit to Ohio EPA the analytical results of the evaluation;

OHIO E.P.A.

MAR 15 96

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Gavin Date 3-15-96

Director's Final Findings & Orders  
Bobick, Inc. (fka Orbitron Industries, Inc.)

Page 4

- c. submit documentation to Ohio EPA describing the amount of hazardous waste generated per month, and how the hazardous waste at the Facility was managed and disposed of; and
  - d. take action to immediately mitigate the threat to human health and the environment posed by the three (3) open drums of unknown wastes in the container storage area.
9. In response to an Ohio EPA request and by letter dated July 12, 1994, U.S. EPA directed Orbitron to grant U. S. EPA access to the Facility. By telephone on July 15, 1994 and by letter dated July 18, 1994, Orbitron granted U.S.EPA access to the Facility.
10. On July 19, 1994, a U.S. EPA Technical Assistance Team, visited the Facility and conducted a sampling event and site investigation, at Ohio EPA's request.
11. Ohio EPA has not received a response to the July 8, 1994 letter. By letter dated July 28, 1994, Ohio EPA directed Orbitron to respond to the violations initially referenced in the July 8, 1994 letter to the company. The Agency has not received a response to the July 28, 1994 letter.
12. On August 15, 1994, U.S. EPA submitted a site assessment report for the Facility to Ohio EPA. The report included the analytical results of the eight (8) samples taken during the July 19, 1994 sampling event and revealed the presence of low pH (pH 2.08), low flash points (ranging from 70° to 103°F); and materials containing xylene (greater than 99 percent xylene); these analytical results indicate that the sampled materials constituted hazardous waste.
13. On September 2, 1994, U.S. EPA and Bobick entered into an Administrative Consent Agreement which required Bobick to, "*inter alia*", restrict access to the drum storage areas, evaluate the abandoned waste at the Facility, and properly dispose of the abandoned waste.

OHIO E.P.A.

MAR 15 96

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Gavin Date 3-15-96

14. On March 7, 1995, U.S. EPA and Ohio EPA coordinated hazardous waste removal activities at the Facility.
15. By letter dated June 12, 1995, Ohio EPA notified Orbitron that the company:
  - a. conducted the required waste evaluation of the waste at the Facility to determine if the waste was hazardous waste and abated the violation of OAC rule 3745-52-11 cited in Finding No. 8 of these Orders; and
  - b. removed all containerized hazardous waste from the site.

In addition, Ohio EPA notified Orbitron that based upon the June 3, 1994 investigation, Ohio EPA determined that the company had failed to close areas at the Facility where hazardous waste was stored and disposed, in violation of OAC rule 3745-66-11(B). The letter directed Orbitron to provide to Ohio EPA, within ten days, time lines and actions needed to conduct generator closure for all areas at the Facility where hazardous waste was managed, in accordance with OAC rule 3745-66-11(B).

16. On August 3, 1995 and August 30, 1995, Ohio EPA directed Orbitron to provide to Ohio EPA, within ten days, time lines and actions needed to conduct generator closure for all areas at the Facility where hazardous waste was managed, in accordance with OAC rule 3745-66-11(B). The Agency has not received a response to these letters from Orbitron.
17. Based upon the June 3, 1994 investigation, the results of the July 19, 1994 sampling event submitted by U.S. EPA, and the August 15, 1994 site assessment report also submitted by U. S. EPA, Ohio EPA has determined that Orbitron:

OHIO E.P.A.

MAR 15 96

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Cavin Date 3-15-96

- a. illegally stored and disposed of hazardous waste at the Facility without first acquiring a Hazardous Waste Facility Installation and Operation Permit which authorizes such activity, and thereby established and operated a hazardous waste facility without a permit, in violation of section 3734.02(E) and (F) of the ORC;
- b. failed to provide security of the Facility to minimize the possibility of entry by unauthorized persons, in violation of OAC rule 3745-65-14; and
- c. failed to maintain and operate the Facility to minimize the possibility of an unplanned release of hazardous waste, in violation of OAC rule 3745-65-31.

#### V. ORDERS

Bobick shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Within ten (10) days after the effective date of these Orders, Bobick shall prepare and submit to Ohio EPA a Site Security Plan ("SSP") which meets the requirements of OAC rule 3745-65-14, for all locations where hazardous waste was stored or disposed at the Facility. The SSP shall describe the methods to be used to establish and maintain site security.
2. The SSP is subject to Ohio EPA approval. If Ohio EPA does not approve the SSP submitted by Bobick and provides Bobick with a written statement of deficiencies, Bobick shall revise the SSP or submit a new SSP for approval that corrects the stated deficiencies within seven (7) days of receipt of such written notification. Ohio EPA may approve the SSP with modifications. If Ohio EPA modifies the SSP, the modified SSP becomes the approved SSP.

OHIO E.P.A.

MAR 15 96

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Gavin Date 3-15-96

3. Within ten (10) days after receipt of approval from Ohio EPA of the SSP submitted by Bobick, Bobick shall implement the approved SSP in the manner and pursuant to the specifications in the approved SSP.
4. Within ten (10) days after the implementation of the approved SSP required by Orders No. 1 and 2 of these Orders, Bobick shall submit to Ohio EPA, for review and approval, a report, including photographic documentation that demonstrates that site security has been established in accordance with the requirements of OAC rule 3745-65-14 and the specifications in the approved SSP.
5. Bobick is hereby ordered to determine the scope of hazardous waste contamination at the Facility in all areas where hazardous waste was either stored or disposed. Within thirty (30) days after the effective date of these Orders, Bobick shall prepare and submit to Ohio EPA a Sampling and Analysis Plan ("SAP") that is in accordance with OAC rule 3745-66-11 (A) and (B) and OAC rule 3745-66-14, for all locations where hazardous waste was stored or disposed at the Facility. The SAP shall describe the methods to be used to determine the nature and extent of any hazardous waste contamination, and shall contain a schedule for the implementation of sampling and analysis of these areas.
6. The SAP is subject to Ohio EPA approval. If Ohio EPA does not approve the SAP submitted by Bobick and provides Bobick with a written statement of deficiencies, Bobick shall revise the SAP or submit a new SAP for approval that corrects the stated deficiencies within thirty (30) days of receipt of such written notification. Ohio EPA may approve the SAP with modifications. If Ohio EPA modifies the SAP, the modified SAP becomes the approved SAP.
7. Upon approval by Ohio EPA of the SAP submitted by Bobick, Bobick shall implement the approved SAP in the manner and pursuant to the time frames set forth in the approved SAP.

OHIO E.P.A.

MAR 15 96

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Carvin Date 3-15-96

8. Within ten (10) days after the receipt of the analytical results generated by the implementation of the approved SAP, Bobick shall submit to Ohio EPA, a Sampling and Analysis Report and a Remediation Plan, which fulfill the requirements of OAC rule 3745-66-11 (A) and (B) and OAC rule 3745-66-14. The Sampling and Analysis Report shall include the laboratory analyses and evaluation of data. The Remediation Plan shall propose a plan for remediation of the areas at the Facility where hazardous waste contamination exists and shall contain a proposed schedule of implementation. If the evaluation of the data within the Sampling and Analysis Report reveals that no hazardous waste contamination exists at the Facility, the Remediation Plan shall state that no remedial actions are required.
9. The Sampling and Analysis Report and the Remediation Plan are subject to Ohio EPA approval. In the event that Ohio EPA does not concur with Bobick's evaluation of the data within the Sampling and Analysis Report or does not approve the Remediation Plan submitted by Bobick and provides Bobick with a detailed written statement of the deficiencies in the Remediation Plan, Bobick shall revise the Remediation Plan or submit a new plan that addresses the stated deficiencies within thirty days (30) after receipt of such a written statement from Ohio EPA. Ohio EPA may approve the Remediation Plan with modifications. If Ohio EPA modifies the revised plan, the modified plan shall become the approved plan.
10. Upon receipt of approval from Ohio EPA of the Remediation Plan, Bobick shall implement the approved Remediation Plan in accordance with the requirements of OAC rule 3745-66-11(A) and (B) and OAC rule 3745-66-14, and in accordance with the specifications and approved schedule contained in the approved Remediation Plan and any conditions attached to the approval.
11. Within sixty (60) days after the implementation of the approved Remediation Plan required by Orders No. 8 and 9 of these Orders, Bobick shall submit to Ohio EPA, for review and approval, a certification that the sampling, analysis and remediation work has been conducted in accordance with the

OHIO E.P.A.

MAR 15 96

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Carver Date 3-15-96

specifications in the approved Remediation Plan. This certification shall be signed by a responsible official of Bobick and by an independent, qualified, registered, professional engineer, in accordance with OAC rule 3745-50-42.

## VI. TERMINATION

Bobick's obligations under these Orders shall terminate when Bobick demonstrate in writing and certify to the satisfaction of Ohio EPA that all obligations under these Orders have been performed and Ohio EPA's Division of Hazardous Waste Management acknowledges, in writing, Ohio EPA's acceptance of this documentation and certification.

This certification shall be signed by a responsible official of Bobick. The certification shall make the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

For purposes of these Orders, a responsible official is a corporate officer who is in charge of a princple business function of Bobick.

## VII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to Orbitron's and Bobick's operation of the Facility. Ohio EPA reserves all rights and privileges except as specified herein.

OHIO E.P.A.

MAR 15 96

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Gavin Date 3-15-96



**VIII. NOTICE**

All documents demonstrating compliance with these Orders and other documents required under these Orders to be submitted to Ohio EPA shall be addressed to:

Ohio Environmental Protection Agency  
Northwest District Office  
Division of Hazardous Waste Management  
Attn: RCRA Group Leader  
347 North Dunbridge Road  
Bowling Green, Ohio 43402

and

For mailings use:

Ohio Environmental Protection Agency  
Division of Hazardous Waste Management  
Attn: Manager, Compliance Assurance Section  
P.O. Box 1049  
Columbus, Ohio 43216-1049

For deliveries to the building:

Ohio Environmental Protection Agency  
Division of Hazardous Waste Management  
Attn: Manager, Compliance Assurance Section  
1800 WaterMark Drive  
Columbus, Ohio 43215-1099

OHIO E.P.A.

MAR 15 96

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

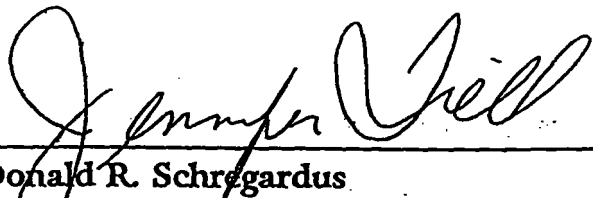
By: Mary Gavin Date 3-15-96

or to such persons and addresses as may hereafter be otherwise specified in writing.

**X. RESERVATION OF RIGHTS**

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Bobick for noncompliance with these Orders or for violations identified in these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Bobick to perform additional activities pursuant to Chapter 3734. of the ORC or any other applicable law in the future. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

IT IS SO ORDERED:

  
\_\_\_\_\_  
Donald R. Schregardus  
Director

March 15, 1996  
\_\_\_\_\_  
Date

wp61.DRS.js.lcn.gjsmith.orbitron

OHIO E.P.A.

MAR 15 96

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Gavin Date 3-15-96

COMMON PLEAS COURT  
IN THE COURT OF COMMON PLEAS FILED  
ALLEN COUNTY, OHIO

98 SEP 24 AM 9:06

ANNE E. GEIGER  
CLERK OF COURTS  
ALLEN COUNTY, OHIO

STATE OF OHIO, ex. rel.  
BETTY D. MONTGOMERY  
ATTORNEY GENERAL OF OHIO,  
30 East Broad Street, 25th Floor  
Columbus, Ohio 43215-3428

Plaintiff

vs.

BOBICK, INC.,  
f.k.a. Orbitron Industries, Inc.  
7873 East Gold Dust Avenue  
Scottsdale, Arizona 85258-1123

Defendant

CV98 09 0593  
CASE NO.

JUDGE  
**WARREN**

COMPLAINT FOR INJUNCTIVE  
RELIEF AND CIVIL PENALTIES

Plaintiff State of Ohio, by and through its Attorney General, Betty D. Montgomery, ("Plaintiff") at the written request of the Director of Environmental Protection ("the Director" or "Ohio EPA"), institutes this action to enforce Ohio's hazardous waste laws, namely, Ohio Revised Code ("R.C.") Chapters 3734 and the rules promulgated thereunder. Plaintiff alleges as follows:

### **Nature of Action**

1. This is an action brought by the State of Ohio to address violations of hazardous waste laws and rules. This action seeks to address violations of an administrative order issued by the Director of Ohio EPA. This action also seeks penalties for past and continuing violations of hazardous waste laws and rules, and seeks injunctive relief for full remediation of the facility that Defendant Bobick, Inc. owns and operated ("the Facility"). Although Defendant Bobick, Inc. removed the drums and containers abandoned at the Facility pursuant to an administrative consent order entered into with the U.S. Environmental Protection Agency ("U.S. EPA"), Ohio hazardous waste law requires the owner or operator of a hazardous waste facility to "close" the facility. "Closure" is a series of activities set forth in Ohio Administrative Code ("Ohio Adm. Code") 3745-55-10 through 3745-55-20 and/or 3745-66-10 through 3745-66-20, by which a person is to, among other things, assess the extent of soil and water contamination at a facility and remediate any such contamination. Defendant Bobick, Inc. has not "closed" the Facility.

2. In accordance with Civ. R. 8 of the Ohio Rules of Civil Procedure, Plaintiff hereby notifies the Court that this claim is in excess of Twenty-Five Thousand Dollars (\$25,000).

### **Defendant**

3. Defendant Bobick, Inc. ("Defendant") owns and operated a plastic container manufacturing facility located at 901 South Main Street, Delphos, Ohio ("the Facility"), from a date unknown to Plaintiff until October of 1993.

4. Defendant is an Indiana corporation, and was licensed to do business in Ohio on or about June 26, 1986.

5. Defendant was formally known as Orbitron Industries, Inc. and changed its name to Bobick, Inc. on or about October 12, 1993.

**Activity of Defendant Giving Rise to this Complaint**

6. As a part of its plastic container manufacturing processes, Defendant generated hazardous wastes.

7. In October of 1993, Defendant ceased operations at the Facility and abandoned approximately 207 drums and containers of unknown waste at the Facility, labeled as flammable, oxidizing, corrosive, or radioactive.

8. From at least October of 1993 until March 7, 1995, the drums and containers were located in several areas throughout the Facility including two open pole barns, sheds, an outside loading dock, a building referred to as the oil house, and in seven locations inside the main building.

9. Up to 114 drums contained hazardous waste.

10. Some of the drums in the oil house were open and several of them were leaking their contents.

11. Drums in several areas of the main building appeared to be leaking and/or bulging.

12. On or about June 2, 1994, three 55-gallon drums of an unknown black substance leaked onto the soil, migrated across a gravel/soil driveway, and soaked into the ground on the south side of the Facility near the open pole barns.

13. On September 20, 1994, U.S. EPA issued an Administrative Order by Consent, ordering Defendant to remove all drums, containers, tanks, associated contents, associated contaminated soil, and transformers present at the Facility.

14. On March 7, 1995, Defendant removed the drums of waste from the Facility.
15. From June 12, 1995 through August 30, 1995, Ohio EPA repeatedly directed Defendant to conduct a closure of the Facility, namely, to investigate and remediate any contamination in accordance with Ohio Adm. Code 3745-55-10 through 3745-55-20 and/or 3745-66-10 through 3745-66-20.
16. Defendant has never conducted closure of the Facility.
17. On March 15, 1996, the Director of Ohio EPA issued Final Findings and Orders ("Director's Orders"), attached as Appendix A, ordering Defendant to, among other things:
  - (a) prepare and submit an approvable site security plan by March 25, 1996, and implement the site security plan after approval by Ohio EPA;
  - (b) prepare and submit an approvable sampling and analysis plan for locations where hazardous waste was stored or disposed by April 14, 1996, and implement the sampling and analysis plan after approval by Ohio EPA;
  - (c) within ten days after receipt of the analytical results generated by the implementation of the approved sampling and analysis plan, submit a sampling and analysis report evaluating the samples collected; and submit an approvable remediation plan proposing a plan for remediation of the areas where hazardous waste contamination exists and containing a schedule of implementation, and implement the remediation plan after approval by Ohio EPA.
18. Defendant failed to comply with the Director's Orders.
19. At all times relevant to this Complaint, Defendant failed to prevent unauthorized access to the Facility.
20. A residential neighborhood is north of and adjacent to the Facility, and the closest home is approximately fifty feet from the Facility.

21. Children have been observed playing on the Facility grounds.
22. The Facility has evidence of vandalism and trespassing.

**Status of Defendant and Its Activities**  
**Under Ohio's Hazardous Waste Laws**

23. "Hazardous waste" is defined in R.C. 3734.01(J) and Ohio Adm. Code 3745-50-10(A)(45) and 3745-51-03.

24. Defendant is a "person", as that term is defined in R.C. 3734.01(G) and Ohio Adm. Code 3745-50-10(A)(86).

25. Defendant has been engaged in the "storage" of hazardous waste, as that term is defined in R.C. 3734.01(M) and Ohio Adm. Code 3745-50-10(A)(108).

26. Defendant has been or currently is an "owner" and/or "operator" of a hazardous waste facility, as those terms are defined in Ohio Adm. Code 3745-50-10(A)(82) and 3745-50-10(A)(81).

27. The Facility is a "facility" or "hazardous waste facility", as those terms are defined in R.C. 3734.01(N) and Ohio Adm. Code 3745-50-10(A)(35). The Facility has never had a hazardous waste permit issued in accordance with R.C. Chapter 3734.

28. Defendant has been a "generator" of hazardous waste, as that term is defined in Ohio Adm. Code 3745-50-10(A)(41).

**Additional General Allegations**

29. R.C. 3734.10 authorizes courts of common pleas to issue injunctions for the violation of R.C. Chapter 3734, any rule adopted under Chapter 3734, or any term or condition of



a permit issued under Chapter 3734.

30. R.C. 3734.11(A) states that no person shall violate any section of Chapter 3734 or any rule adopted under Chapter 3734.

31. R.C. 3734.13(C) authorizes courts of common pleas to assess civil penalties of up to Ten Thousand Dollars (\$10,000) per day for each day of each violation of R.C. Chapter 3734, any rule adopted under Chapter 3734, or any term or condition of a permit issued under Chapter 3734.

32. The allegations in the previous paragraphs of the Complaint are incorporated by reference into each Count of the Complaint as if fully restated therein.

#### **COUNT ONE**

##### **Violation of Director's Findings And Orders**

33. R.C. 3734.13(A) provides that the Director of Environmental Protection may issue orders to any person to abate a violation or to prevent any threatened violation of R.C. Chapter 3734 or rule adopted thereunder within a specified, reasonable time.

34. R.C. 3734.11(A) and R.C. 3734.13(D) provide that no person shall violate any order issued under R.C. 3734.13.

35. The Director's Orders, issued on March 15, 1996, ordered Defendant, among other things, to implement a site security plan approved by Ohio EPA, to implement a sampling and analysis plan approved by Ohio EPA, to submit a sampling and analysis report, and to implement a remediation plan approved by Ohio EPA.

36. Defendant failed to comply with the Director's Orders.

37. The conduct of Defendant as described in this Count violates R.C. 3734.11(A) and 3734.13(D), for which conduct Plaintiff is entitled to injunctive relief pursuant to R.C. 3734.10 and 3734.13(C), and for which Defendant is liable for a civil penalty of up to Ten Thousand Dollars (\$10,000) per day for each day of violation of each order, including each day subsequent to the filing of this Complaint, pursuant to R.C. 3734.13(C).

**COUNT TWO**  
**Illegal Storage of Hazardous Waste**

38. R.C. 3734.02(E) prohibits a person from establishing or operating a hazardous waste facility without a hazardous waste permit issued by the Hazardous Waste Facility Board.

39. R.C. 3734.02(F) provides that no person shall store hazardous waste on any premises in Ohio other than: (1) a hazardous waste facility operating under a hazardous waste permit issued in accordance with R.C. Chapter 3734; (2) a facility in another state operating under a license or permit issued in accordance with the "Resource Conservation and Recovery Act of 1976" ("RCRA"), 90 Stat. 2806, 42 U.S.C.A. 6921, as amended; (3) a facility in another nation operating in accordance with the laws of that nation; (4) a facility holding a permit issued pursuant to Title I of the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 Stat. 1052, 33 U.S.C.A. 1401, as amended; or (5) a hazardous waste facility that is operating under a permit by rule under rules adopted by the Director of Environmental Protection or that is not subject to permit requirements under rules adopted by the Director.

40. From at least January, 1994 and continuing until March 7, 1995, Defendant stored hazardous waste at the Facility.

41. The Facility is not one of the types of facilities authorized by R.C. 3734.02(F) for the storage of hazardous wastes.

42. The Hazardous Waste Facility Board has never issued a hazardous waste permit for the Facility in accordance with R.C. Chapter 3734 and/or rules promulgated thereunder.

43. Defendant has established or operated a hazardous waste facility without a hazardous waste permit issued by the Hazardous Waste Facility Board.

44. The conduct of Defendant as described in this Count violates R.C. 3734.02(E), 3734.02(F), and 3734.11(A), for which conduct Plaintiff is entitled to injunctive relief pursuant to R.C. 3734.10 and 3734.13(C), and for which Defendant is liable for a civil penalty of up to Ten Thousand Dollars (\$10,000) per day for each day of each violation, including each day subsequent to the filing of this Complaint, pursuant to R.C. 3734.13(C).

**COUNT THREE**  
**Failure to Have A Closure Plan**

45. Ohio Adm. Code 3745-55-11 and/or 3745-66-11 require that the owner or operator of a hazardous waste facility must close the facility in a manner that (A) minimizes the need for further maintenance, and (B) controls, minimizes, or eliminates, to the extent necessary to prevent threats to human health and the environment, post-closure escapes of hazardous waste, hazardous constituents, leachate, contaminated runoff, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere.

46. Ohio Adm. Code 3745-55-12 and/or 3745-66-12 provide that the owner or operator of a hazardous waste facility must have a written closure plan.

47. Beginning on a date not yet known to Plaintiff, but since at least January, 1994 and continuing until the present date, Defendant has failed to have a written closure plan for the Facility in accordance with Ohio Adm. Code 3745-55-12 and/or 3745-66-12.

48. The conduct of Defendant as described in this Count violates Ohio Adm. Code 3745-55-11 and/or 3745-66-11, 3745-55-12 and/or 3745-66-12, and R.C. 3734.11(A), for which conduct Plaintiff is entitled to injunctive relief pursuant to R.C. 3734.10 and 3734.13(C), and for which Defendant is liable for a civil penalty of up to Ten Thousand Dollars (\$10,000) per day for each day of each violation, including each day subsequent to the filing of this Complaint, pursuant to R.C. 3734.13(C).

#### **COUNT FOUR**

##### **Failure to Remove Hazardous Waste in Accordance with an Approved Closure Plan and to Complete Closure of Hazardous Waste Facility**

49. Ohio Adm. Code 3745-55-12 and/or 3745-66-12 provide that the owner or operator of a hazardous waste facility must have a written closure plan.

50. Ohio Adm. Code 3745-55-13(A) and (B) and/or 3745-66-13(A) and (B) require the owner or operator of a hazardous waste facility to remove all hazardous wastes in accordance with an approved closure plan from the facility within ninety (90) days after receiving the final volume of hazardous waste and to complete closure activities in accordance with the approved closure plan within one hundred eighty (180) days after receiving the final volume of hazardous waste.

51. From at least June 5, 1995 and continuing until the present time, Defendant failed to remove all hazardous wastes from the Facility within ninety (90) days after receiving the final

volume of hazardous waste, and from at least September 2, 1995 and continuing until the present time, Defendant failed to complete closure activities in accordance with an approved closure plan within one hundred eighty (180) days after receiving the final volume of hazardous waste.

52. The conduct of Defendant as described in this Count violates Ohio Adm. Code 3745-55-12 and/or 3745-66-12, 3745-55-13(A) and (B) and/or 3745-66-13(A) and (B), and R.C. 3734.11(A), for which conduct Plaintiff is entitled to injunctive relief pursuant to R.C. 3734.10 and 3734.13(C), and for which Defendant is liable for a civil penalty of up to Ten Thousand Dollars (\$10,000) per day for each day of each violation, including each day subsequent to the filing of this Complaint, pursuant to R.C. 3734.13(C).

**COUNT FIVE**  
**Failure to Establish Financial**  
**Assurance For Facility Closure**

53. Ohio Adm. Code 3745-55-43 and/or 3745-66-43 require the owner or operator of a hazardous waste facility to establish financial assurance for closure of the facility.

54. Beginning on a date not yet known to Plaintiff, but since at least January, 1994 and continuing until the present day, Defendant failed to establish financial assurance for closure of the Facility.

55. The conduct of Defendant as described in this Count violates Ohio Adm. Code 3745-55-43 and/or 3745-66-43 and R.C. 3734.11(A), for which conduct Plaintiff is entitled to injunctive relief pursuant to R.C. 3734.10 and 3734.13(C), and for which Defendant is liable for a civil penalty of up to Ten Thousand Dollars (\$10,000) per day for each day of each violation, including each day subsequent to the filing of this Complaint, pursuant to R.C. 3734.13(C).

**COUNT SIX**  
**Failure to Maintain Security**

56. Ohio Adm. Code 3745-54-14 and/or 3745-65-14 provide that the owner or operator of a facility shall prevent unknowing entry and minimize the possibility of unauthorized entry of persons or livestock onto the active portion of the facility through means specified in this rule.

57. From a date not yet known to Plaintiff, but since at least June 2, 1994 and continuing until the present time, Defendant has failed to prevent unknown entry and failed to minimize the possibility of unauthorized entry at the Facility.

58. The conduct of Defendant as described in this Count violates Ohio Adm. Code 3745-54-14 and/or 3745-65-14 and R.C. 3734.11(A), for which conduct Plaintiff is entitled to injunctive relief pursuant to R.C. 3734.10 and 3734.13(C), and for which Defendant is liable for a civil penalty of up to Ten Thousand Dollars (\$10,000) per day for each day of each violation, including each day subsequent to the filing of this Complaint, pursuant to R.C. 3734.13(C).

**COUNT SEVEN**  
**Failure to Minimize the Risk of Fire,**  
**Explosion, and Contamination**

59. Ohio Adm. Code 3745-54-31 and/or 3745-65-31 provide that facilities shall be maintained and operated to minimize the possibility of a fire, explosion, or unplanned release of hazardous waste or hazardous waste constituents into the air, soil, or surface water which could threaten human health or the environment.

60. Since at least June 2, 1994 and continuing until at least March 7, 1995, Defendant

failed to maintain and operate the Facility so as to minimize the possibility of fire, explosion, or unplanned release of hazardous waste or hazardous waste constituents into the air, soil, or surface water which could threaten human health or the environment.

61. The conduct of Defendant as described in this Count violates Ohio Adm. Code 3745-54-31 and/or 3745-65-31 and R.C. 3734.11(A), for which conduct Plaintiff is entitled to injunctive relief pursuant to R.C. 3734.10 and 3734.13(C), and for which Defendant is liable for a civil penalty of up to Ten Thousand Dollars (\$10,000) per day for each day of each violation, including each day subsequent to the filing of this Complaint, pursuant to R.C. 3734.13(C).

#### **PRAYER FOR RELIEF**

**THEREFORE**, Plaintiff respectfully requests this Court to:

- A. Permanently enjoin Defendant to comply with R.C. Chapter 3734 and rules adopted thereunder.
- B. Order Defendant to comply with the Director's Findings and Orders issued on March 15, 1996.
- C. Order Defendant, pursuant to R.C. 3734.13(C) and (E), to pay into the state treasury to the credit of the hazardous waste clean-up fund, a civil penalty of Ten Thousand Dollars (\$10,000) per day for each day of each violation alleged in Counts One through Seven of the Complaint, including any violations occurring after the filing of the Complaint.
- D. Order Defendant to pay all costs and fees for this action, including attorneys' fees assessed by the Office of the Ohio Attorney General.
- E. Award such other relief as this Court deems just and proper.

Respectfully submitted,

**BETTY D. MONTGOMERY  
ATTORNEY GENERAL OF OHIO**



---

**Luann L. Hoover (0062404)  
Lori A. Massey (0047226)  
Assistant Attorneys General  
Environmental Enforcement Section  
30 East Broad Street, 25th Floor  
Columbus, Ohio 43215-3428  
Telephone: (614) 466-2766  
Facsimile: (614) 644-1926**



Issue Date: March 15, 1996Effective Date: March 15, 1996

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Bobick, Inc. (fka Orbitron Industries, Inc.)	:	<u>Director's Final</u>
4101 Edison Lakes Parkway	:	<u>Findings and Orders</u>
Suite 160	:	
Mishawaka, Indiana 46545	:	

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Bobick, Inc. (fka Orbitron, Industries, Inc.) ("Bobick") pursuant to the authority vested in the Director of Environmental Protection under Sections 3734.13 and 3745.01 of the Ohio Revised Code ("ORC").

II. PARTIES BOUND

These Orders shall apply to and be binding upon Bobick, its assigns and successors in interest. No change in ownership relating to the Facility will in any way alter Bobick's responsibilities under these Orders. Bobick's obligations under these Orders may be altered only by the written approval of the Director of Environmental Protection.

OHIO E.P.A.

MAR 15 96

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Carvin Date 3-15-96

### III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in Chapter 3734. of the ORC and the regulations promulgated thereunder.

### IV. FINDINGS OF FACT

The Director of the Ohio Environmental Protection Agency has determined the following findings of fact:

1. Bobick owns and operated a plastic container manufacturing facility located at 901 South Main Street, Delphos, Allen County, Ohio ("Facility"). Bobick is an Indiana corporation located in Mishawaka, Indiana. On October 12, 1993, Orbitron Industries, Inc. ("Orbitron") changed the company's name to Bobick, Inc.
2. Orbitron was licensed to do business in the State of Ohio on June 28, 1986.
3. Bobick is a "person" as defined in Sections 1.59 and 3734.01(G) of the ORC and rule 3745-50-10(A)(83) of the Ohio Administrative Code ("OAC").
4. On November 16, 1987, Orbitron notified the United States Environmental Protection Agency ("U.S. EPA") of its hazardous waste activity at the Facility and was issued U.S. EPA Identification Number OHD982220626.
5. In the Fall of 1993, Orbitron ceased operations at the Facility, and abandoned materials and containers on site.

OHIO E.P.A.

MAR 15 96

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Gavin Date 3-15-96

6. On June 2, 1994, Ohio EPA responded to a complaint from the Delphos Fire Department of a spill at the Facility. An Orbitron contractor over packed three containers that were leaking their contents onto the soils. Ohio EPA observed numerous other abandoned drums labeled as hazardous waste throughout the Facility.
7. On June 3, 1994, Ohio EPA received a complaint regarding abandoned materials at the Facility. On June 3, 1994, Ohio EPA conducted an investigation at the Facility and found:
  - a. approximately two hundred seven (207) drums and containers of unknown waste at the Facility, many in poor condition, in the following locations: in two (2) open pole barns, outside on the loading dock, in several sheds, and in nine (9) locations inside the main building at the Facility;
  - b. the Facility was unsecured, and Ohio EPA observed children playing at the Facility and evidence of vandalism and trespassing on the grounds and inside Facility buildings; and
  - c. the nearest residence was located less than fifty feet from the Facility.
8. By letter dated July 8, 1994, Ohio EPA notified Orbitron that the company had failed to evaluate the waste at the Facility to determine if the waste was hazardous, as defined in OAC Chapter 3745-51, in violation of OAC rule 3745-52-11. The letter directed Orbitron to :
  - a. evaluate the waste at the Facility to determine if the waste was hazardous waste;
  - b. submit to Ohio EPA the analytical results of the evaluation;

OHIO E.P.A.

MAR 15 96

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the  
official document as filed in the records of the Ohio  
Environmental Protection Agency.

By: Mary Gavin Date 3-15-96

Director's Final Findings & Orders  
Bobick, Inc. (fka Orbitron Industries, Inc.)

Page 4

- c. submit documentation to Ohio EPA describing the amount of hazardous waste generated per month, and how the hazardous waste at the Facility was managed and disposed of; and
  - d. take action to immediately mitigate the threat to human health and the environment posed by the three (3) open drums of unknown wastes in the container storage area.
9. In response to an Ohio EPA request and by letter dated July 12, 1994, U.S. EPA directed Orbitron to grant U. S. EPA access to the Facility. By telephone on July 15, 1994 and by letter dated July 18, 1994, Orbitron granted U.S.EPA access to the Facility.
10. On July 19, 1994, a U.S. EPA Technical Assistance Team, visited the Facility and conducted a sampling event and site investigation, at Ohio EPA's request.
11. Ohio EPA has not received a response to the July 8, 1994 letter. By letter dated July 28, 1994, Ohio EPA directed Orbitron to respond to the violations initially referenced in the July 8, 1994 letter to the company. The Agency has not received a response to the July 28, 1994 letter.
12. On August 15, 1994, U.S. EPA submitted a site assessment report for the Facility to Ohio EPA. The report included the analytical results of the eight (8) samples taken during the July 19, 1994 sampling event and revealed the presence of low pH (pH 2.08), low flash points (ranging from 70° to 103°F); and materials containing xylene (greater than 99 percent xylene); these analytical results indicate that the sampled materials constituted hazardous waste.
13. On September 2, 1994, U.S. EPA and Bobick entered into an Administrative Consent Agreement which required Bobick to, "inter alia", restrict access to the drum storage areas, evaluate the abandoned waste at the Facility, and properly dispose of the abandoned waste.

OHIO E.P.A.

MAR 15 96

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Carvin Date 3-15-96

14. On March 7, 1995, U.S. EPA and Ohio EPA coordinated hazardous waste removal activities at the Facility.
15. By letter dated June 12, 1995, Ohio EPA notified Orbitron that the company:
  - a. conducted the required waste evaluation of the waste at the Facility to determine if the waste was hazardous waste and abated the violation of OAC rule 3745-52-11 cited in Finding No. 8 of these Orders; and
  - b. removed all containerized hazardous waste from the site.

In addition, Ohio EPA notified Orbitron that based upon the June 3, 1994 investigation, Ohio EPA determined that the company had failed to close areas at the Facility where hazardous waste was stored and disposed, in violation of OAC rule 3745-66-11(B). The letter directed Orbitron to provide to Ohio EPA, within ten days, time lines and actions needed to conduct generator closure for all areas at the Facility where hazardous waste was managed, in accordance with OAC rule 3745-66-11(B).

16. On August 3, 1995 and August 30, 1995, Ohio EPA directed Orbitron to provide to Ohio EPA, within ten days, time lines and actions needed to conduct generator closure for all areas at the Facility where hazardous waste was managed, in accordance with OAC rule 3745-66-11(B). The Agency has not received a response to these letters from Orbitron.
17. Based upon the June 3, 1994 investigation, the results of the July 19, 1994 sampling event submitted by U.S. EPA, and the August 15, 1994 site assessment report also submitted by U. S. EPA, Ohio EPA has determined that Orbitron:

OHIO E.P.A.

MAR 15 96

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Gavin Date 3-15-96

- a. illegally stored and disposed of hazardous waste at the Facility without first acquiring a Hazardous Waste Facility Installation and Operation Permit which authorizes such activity, and thereby established and operated a hazardous waste facility without a permit, in violation of section 3734.02(E) and (F) of the ORC;
- b. failed to provide security of the Facility to minimize the possibility of entry by unauthorized persons, in violation of OAC rule 3745-65-14; and
- c. failed to maintain and operate the Facility to minimize the possibility of an unplanned release of hazardous waste, in violation of OAC rule 3745-65-31.

#### V. ORDERS

Bobick shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Within ten (10) days after the effective date of these Orders, Bobick shall prepare and submit to Ohio EPA a Site Security Plan ("SSP") which meets the requirements of OAC rule 3745-65-14, for all locations where hazardous waste was stored or disposed at the Facility. The SSP shall describe the methods to be used to establish and maintain site security.
2. The SSP is subject to Ohio EPA approval. If Ohio EPA does not approve the SSP submitted by Bobick and provides Bobick with a written statement of deficiencies, Bobick shall revise the SSP or submit a new SSP for approval that corrects the stated deficiencies within seven (7) days of receipt of such written notification. Ohio EPA may approve the SSP with modifications. If Ohio EPA modifies the SSP, the modified SSP becomes the approved SSP.

OHIO E.P.A.

MAR 15 96

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Gavin Date 3-15-96

3. Within ten (10) days after receipt of approval from Ohio EPA of the SSP submitted by Bobick, Bobick shall implement the approved SSP in the manner and pursuant to the specifications in the approved SSP.
4. Within ten (10) days after the implementation of the approved SSP required by Orders No. 1 and 2 of these Orders, Bobick shall submit to Ohio EPA, for review and approval, a report, including photographic documentation that demonstrates that site security has been established in accordance with the requirements of OAC rule 3745-65-14 and the specifications in the approved SSP.
5. Bobick is hereby ordered to determine the scope of hazardous waste contamination at the Facility in all areas where hazardous waste was either stored or disposed. Within thirty (30) days after the effective date of these Orders, Bobick shall prepare and submit to Ohio EPA a Sampling and Analysis Plan ("SAP") that is in accordance with OAC rule 3745-66-11 (A) and (B) and OAC rule 3745-66-14, for all locations where hazardous waste was stored or disposed at the Facility. The SAP shall describe the methods to be used to determine the nature and extent of any hazardous waste contamination, and shall contain a schedule for the implementation of sampling and analysis of these areas.
6. The SAP is subject to Ohio EPA approval. If Ohio EPA does not approve the SAP submitted by Bobick and provides Bobick with a written statement of deficiencies, Bobick shall revise the SAP or submit a new SAP for approval that corrects the stated deficiencies within thirty (30) days of receipt of such written notification. Ohio EPA may approve the SAP with modifications. If Ohio EPA modifies the SAP, the modified SAP becomes the approved SAP.
7. Upon approval by Ohio EPA of the SAP submitted by Bobick, Bobick shall implement the approved SAP in the manner and pursuant to the time frames set forth in the approved SAP.

OHIO E.P.A.

MAR 15 96

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Carvin Date 3-15-96

8. Within ten (10) days after the receipt of the analytical results generated by the implementation of the approved SAP, Bobick shall submit to Ohio EPA, a Sampling and Analysis Report and a Remediation Plan, which fulfill the requirements of OAC rule 3745-66-11 (A) and (B) and OAC rule 3745-66-14. The Sampling and Analysis Report shall include the laboratory analyses and evaluation of data. The Remediation Plan shall propose a plan for remediation of the areas at the Facility where hazardous waste contamination exists and shall contain a proposed schedule of implementation. If the evaluation of the data within the Sampling and Analysis Report reveals that no hazardous waste contamination exists at the Facility, the Remediation Plan shall state that no remedial actions are required.
9. The Sampling and Analysis Report and the Remediation Plan are subject to Ohio EPA approval. In the event that Ohio EPA does not concur with Bobick's evaluation of the data within the Sampling and Analysis Report or does not approve the Remediation Plan submitted by Bobick and provides Bobick with a detailed written statement of the deficiencies in the Remediation Plan, Bobick shall revise the Remediation Plan or submit a new plan that addresses the stated deficiencies within thirty days (30) after receipt of such a written statement from Ohio EPA. Ohio EPA may approve the Remediation Plan with modifications. If Ohio EPA modifies the revised plan, the modified plan shall become the approved plan.
10. Upon receipt of approval from Ohio EPA of the Remediation Plan, Bobick shall implement the approved Remediation Plan in accordance with the requirements of OAC rule 3745-66-11(A) and (B) and OAC rule 3745-66-14, and in accordance with the specifications and approved schedule contained in the approved Remediation Plan and any conditions attached to the approval.
11. Within sixty (60) days after the implementation of the approved Remediation Plan required by Orders No. 8 and 9 of these Orders, Bobick shall submit to Ohio EPA, for review and approval, a certification that the sampling, analysis and remediation work has been conducted in accordance with the

OHIO E.P.A.

MAR 15 96

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Gavin Date 3-15-96



specifications in the approved Remediation Plan. This certification shall be signed by a responsible official of Bobick and by an independent, qualified, registered, professional engineer, in accordance with OAC rule 3745-50-42.

## VI. TERMINATION

Bobick's obligations under these Orders shall terminate when Bobick demonstrate in writing and certify to the satisfaction of Ohio EPA that all obligations under these Orders have been performed and Ohio EPA's Division of Hazardous Waste Management acknowledges, in writing, Ohio EPA's acceptance of this documentation and certification.

This certification shall be signed by a responsible official of Bobick. The certification shall make the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principle business function of Bobick.

## VII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to Orbitron's and Bobick's operation of the Facility. Ohio EPA reserves all rights and privileges except as specified herein.

OHIO E.P.A.

MAR 15 96

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Gavin Date 3-15-96

**VIII. NOTICE**

All documents demonstrating compliance with these Orders and other documents required under these Orders to be submitted to Ohio EPA shall be addressed to:

Ohio Environmental Protection Agency  
Northwest District Office  
Division of Hazardous Waste Management  
Attn: RCRA Group Leader  
347 North Dunbridge Road  
Bowling Green, Ohio 43402

and

For mailings use:

Ohio Environmental Protection Agency  
Division of Hazardous Waste Management  
Attn: Manager, Compliance Assurance Section  
P.O. Box 1049  
Columbus, Ohio 43216-1049

For deliveries to the building:

Ohio Environmental Protection Agency  
Division of Hazardous Waste Management  
Attn: Manager, Compliance Assurance Section  
1800 WaterMark Drive  
Columbus, Ohio 43215-1099

OHIO E.P.A.

MAR 15 96

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

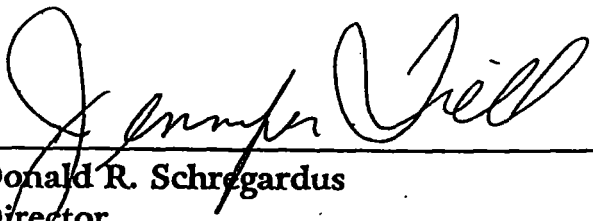
By: Mary Gavin Date 3-15-96

or to such persons and addresses as may hereafter be otherwise specified in writing.

**X. RESERVATION OF RIGHTS**

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Bobick for noncompliance with these Orders or for violations identified in these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Bobick to perform additional activities pursuant to Chapter 3734. of the ORC or any other applicable law in the future. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

IT IS SO ORDERED:

  
\_\_\_\_\_  
Donald R. Schregardus  
Director

March 15, 1996  
\_\_\_\_\_  
Date

wp61.DRS.js.lcn.gjsmith.orbitron

OHIO E.P.A.

MAR 15 96

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Mary Cavin Date 3-15-96

# ATTACHMENT F

# ABBREVIATED PRELIMINARY ASSESSMENT CHECKLIST

This checklist can be used to help the site investigator determine if an Abbreviated Preliminary Assessment (APA) is warranted. This checklist should document the rationale for the decision on whether further steps in the site investigation process are required under CERCLA. Use additional sheets, if necessary.

Checklist Preparer:

A Edward Onyia / Site Coord.  
 Name/Title  
 3447 N Dunbridge Rd, BG OH  
 Address  
 Ed.Onyia@epa.state.oh.us  
 E-mail Address

Jun 22, 1999  
 Date  
 (614) 352-8461  
 Phone

Site Name:

Bobick Inc

Previous Names (if any):

ORBITRON INDUSTRIES

Site Location:

Delphos, Allen County, Ohio

Latitude:

Longitude:

Describe the release (or potential release) and its probable nature:

200 drums of hazardous wastes removed by USEPA

## Part 1 - CERCLA Eligibility Evaluation

If the answer to any one of these is "yes," the site can be considered NFRAP or archived

	YES	NO
1. Is the site nonexistent, or is it not a duplicate (or "alias") of another site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Is the site being addressed by some other remedial program (Federal, State, or Tribal)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Are the hazardous substances potentially released at the site regulated under a statutory exclusion (e.g., petroleum, natural gas, natural gas liquids, synthetic gas usable for fuel, normal application of fertilizer, release located in a workplace, naturally occurring, or regulated by the NRC, UMTRCA, or OSHA)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Are the hazardous substances potentially released at the site excluded by policy considerations (e.g., deferred to RCRA corrective action, FIFRA, or Brownfields)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Is there sufficient documentation to demonstrate that no potential for a release that could cause adverse environmental or human health impacts, (e.g., comprehensive remedial investigation equivalent data showing no release above ARARs, completed removal action, previous HRS score determined, or an EPA approved risk assessment completed)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Please explain all "yes" answer(s).

The removal action resulted from RCRA inspections. The technical oversight was provided by NNDO corrective action program during removal. The program still maintains jurisdiction and an enforcement action is being taken against owners.

## Part 2 - Initial Site Evaluation

Use Exhibit 1 of this fact sheet to make site assessment decisions based on the answers below:

	YES	NO
Does documentation indicate that a target (e.g., drinking water wells, drinking surface water intakes, etc.) has been exposed to a hazardous substance released from the site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is there an apparent release at the site with no documentation of exposed targets, but there are targets on site or immediately adjacent to the site?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is there an apparent release and no documented on-site targets or targets immediately adjacent to the site, but there are nearby targets (e.g., targets within 1 mile)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is there no indication of a hazardous substance release, and there are uncontained sources containing CERCLA hazardous substances, but there is a potential to release with targets present on site or in proximity to the site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the site lack documented on-site, adjacent, or nearby targets?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the site lack releases or potential to release?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the site lack uncontained sources containing CERCLA eligible substances are present on site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Please explain all "yes" answer(s).

*The former manufacturing facility is in middle of a residential area.*

## Part 3 - EPA Regional Review and Site Assessment Decision

Check the box(es) that apply.

- ☐ NFRAP/Archive
- ☐ APA
- ☐ Full PA
- ☐ Combined PA/SI
- ☐ SI
- ☒ Removal Action
- ☐ Other: \_\_\_\_\_

Lead Agency or Defer/Refer to:

- ☐ EPA Remedial Program
- ☐ Removal Program
- ☐ State/Tribal Program
- ☒ RCRA
- ☐ Brownfields
- ☐ Other Federal Agency: \_\_\_\_\_
- ☐ Other: \_\_\_\_\_

Regional EPA Reviewer:

*A Edward Day 10*  
Print Name/Signature

*June 22, 1989*  
Date

**PRELIMINARY ASSESSMENT**

**ORBITRON INDUSTRIES.**

**LIMA, ALLEN COUNTY.**

**Prepared by:**

**OHIO ENVIRONMENTAL PROTECTION AGENCY  
Division of Emergency & Remedial Response**

**June 1, 1999**

## **1.0 EXECUTIVE SUMMARY**

There is no file information available on this site. Review of the files in the Northwest District Office of the Ohio Environmental Protection Agency (Ohio EPA) does not indicate any Agency activities at the site.

## **2.0 INTRODUCTION**

Preliminary Assessments (PA) are completed by the Ohio EPA Division of Emergency and Remedial Response (DERR) as part of an ongoing process to identify and remediate hazardous or potentially hazardous waste sites in Ohio. PAs serve to screen sites to determine if there has been a release or a potential release of hazardous waste at or from a site. The PA also evaluates the environmental pathways (air, groundwater, surface water, soil) that may have been impacted by such a release and the threat or potential threat it may pose to human health or the environment. The PA is based on a review of all information available to the Ohio EPA and it may be updated as new information becomes available.

## **3.0 SITE BACKGROUND**

### **3.1 Site Description**

No file information is available for this site

### **3.2 Site History**

The Agency has no file information for this site.

### **3.3 Previous Site Work**

No previous site work was performed at this site.

## **4.0 MIGRATION PATHWAYS & SUMMARIES**

No file information is available.



## 5.0 CONCLUSION

No file information.

Prepared by:

Edward Onyia

Date June 1, 1998

Site Coordinator

## ATTACHMENT G

WELL NUMBER: 8

LOCATION: Allen County, Marion Township; Old Lima Road, Delphos.  
1400 feet south of Old Lima Road, 1850 feet east of State  
Route 66. 84D 19' 42" W longitude, 40D 49' 53 " N  
latitude.

DATE DRILLED: 11/16/87

DRILLER: Sever Well Drilling

WELL DEPTH: 300 feet

LENGTH OF CASING: 25 feet

WELL DIAMETER: 10 inch

WELL LOG: yes, # 676165

PLANS APPROVAL OF WELL: Dated November 13, 1989, Application #  
NW-1326-WS.

UPGRADING OF WELL AFTER DRILLING: None, other than a transmission  
line laid to get the water to the south water plant.

676165

State of Ohio  
DEPARTMENT OF NATURAL RESOURCES  
Division of Water  
Fountain Square  
Columbus, Ohio 43224

WELL #8

Permit Number \_\_\_\_\_

COUNTY Allen TOWNSHIP \_\_\_\_\_ SECTION OF TOWNSHIP \_\_\_\_\_  
OWNER City of Delphos ADDRESS Delphos, Ohio  
LOCATION OF PROPERTY Ridge Rd.

**BAILING OR PUMPING TEST**  
(specify one by circling)

(specify one by circling)

Casing diameter <u>10"</u>	Length of casing <u>25'</u>	Test rate _____ gpm	Duration of test _____ hrs
Type of screen _____	Length of screen _____	Drawdown _____ ft	Date _____
Type of pump _____		Static level (depth to water) _____ ft	
Capacity of pump _____		Quality (clear, cloudy, taste, odor) _____	
Depth of pump setting _____			
Date of completion <u>11/16/87</u>		Pump installed by _____	
Rotary <input type="checkbox"/> or Cable <input type="checkbox"/>			

**SKETCH SHOWING LOCATION**

Locate in reference to numbered  
state highways, street intersections, county roads, etc.

[illegible]

A hand-drawn map on a grid background. A horizontal line is labeled "Ridge Rd" in the center. To the left of this line, a curved line represents a boundary or path, with the word "Delphinus" written above it. Below "Ridge Rd", there is a small black dot followed by the word "Well" which is underlined. The map is oriented with "N" at the top, "S" at the bottom, "W" on the left, and "E" on the right.

\* If additional space is needed to complete well log, use next consecutively numbered form.

**DNR 7802**

BILLING FIRM Sever Well Drilling REGISTRATION NUMBER 116 DATE 11/16/87  
 ADDRESS Delphos Ohio SIGNED Daniel A. Sever

Completion of this form is required by 1521.05, Ohio Revised Code - file within 30 days after completion.

WHITE ORIGINAL COPY - ODNR, DIVISION OF WATER, FOUNTAIN SQ., COLS., OHIO 43224 / Blue - Customer's Copy / Pink - Driller's Copy / Green - Local Health Dept. Copy

 S-55

## ATTACHMENT H



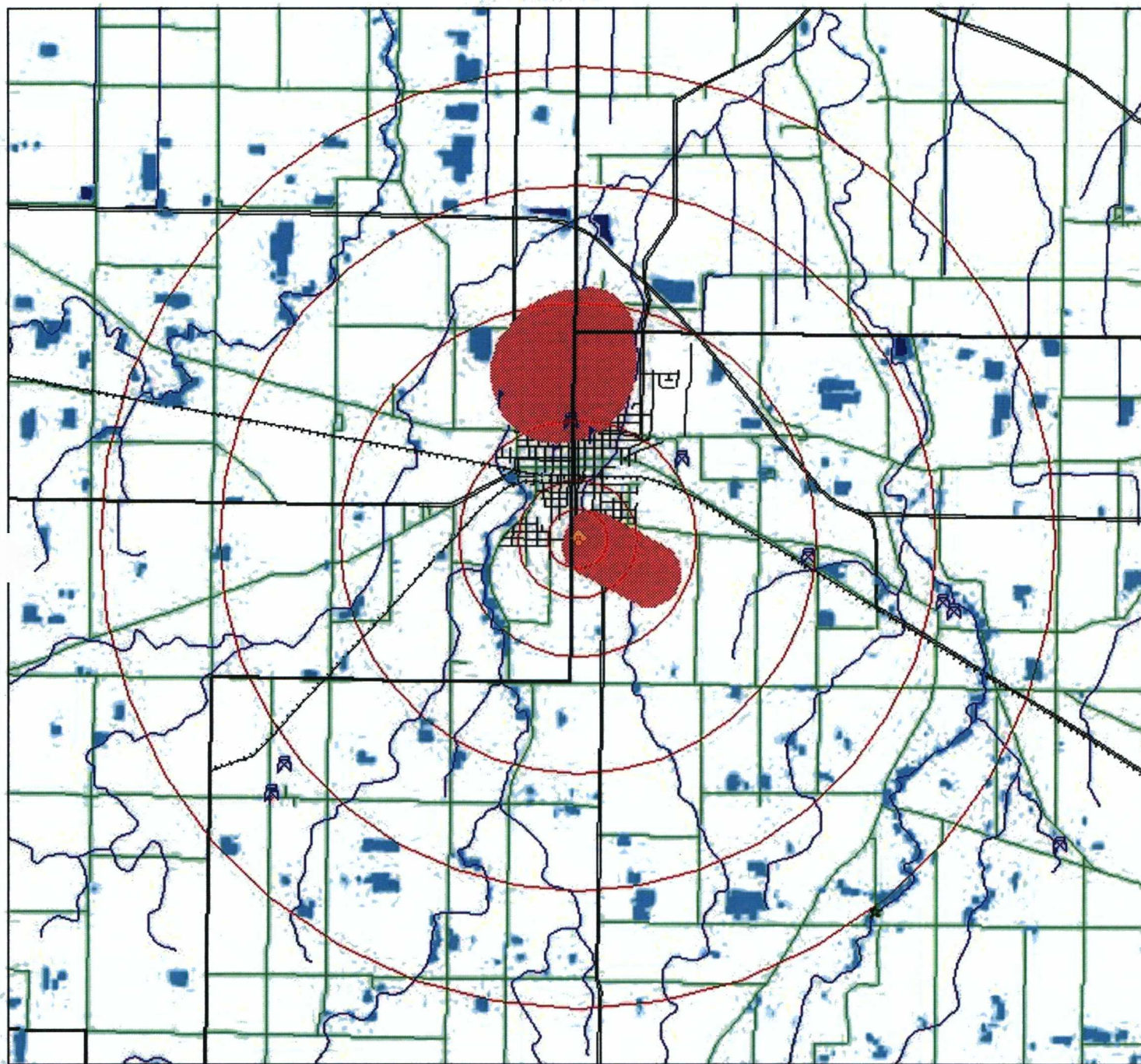


Division of Emergency & Remedial Response

GEOGRAPHIC INFORMATION SYSTEM 4 MILE RADIUS MAP

Allen County

Orbitron



- ✦ Site
- ▤ School
- ✚ Hospital
- ▤ Public Surface Water Systems
- ▤ Public Ground Water Systems
- ◀ US Endangered/Threatened Species
- ★ Ohio Endangered/Threatened Species

- Wetland Area
- Lakes & Ponds
- Wellhead Protection Area
- Limit of Radius From Site
- County Boundaries

- ▬ Rivers & Streams
- ▬ Railroad
- ▬ State and Federal Highways
- ▬ Local Roads
- ▬ Municipal Roads



2 0 2 Miles



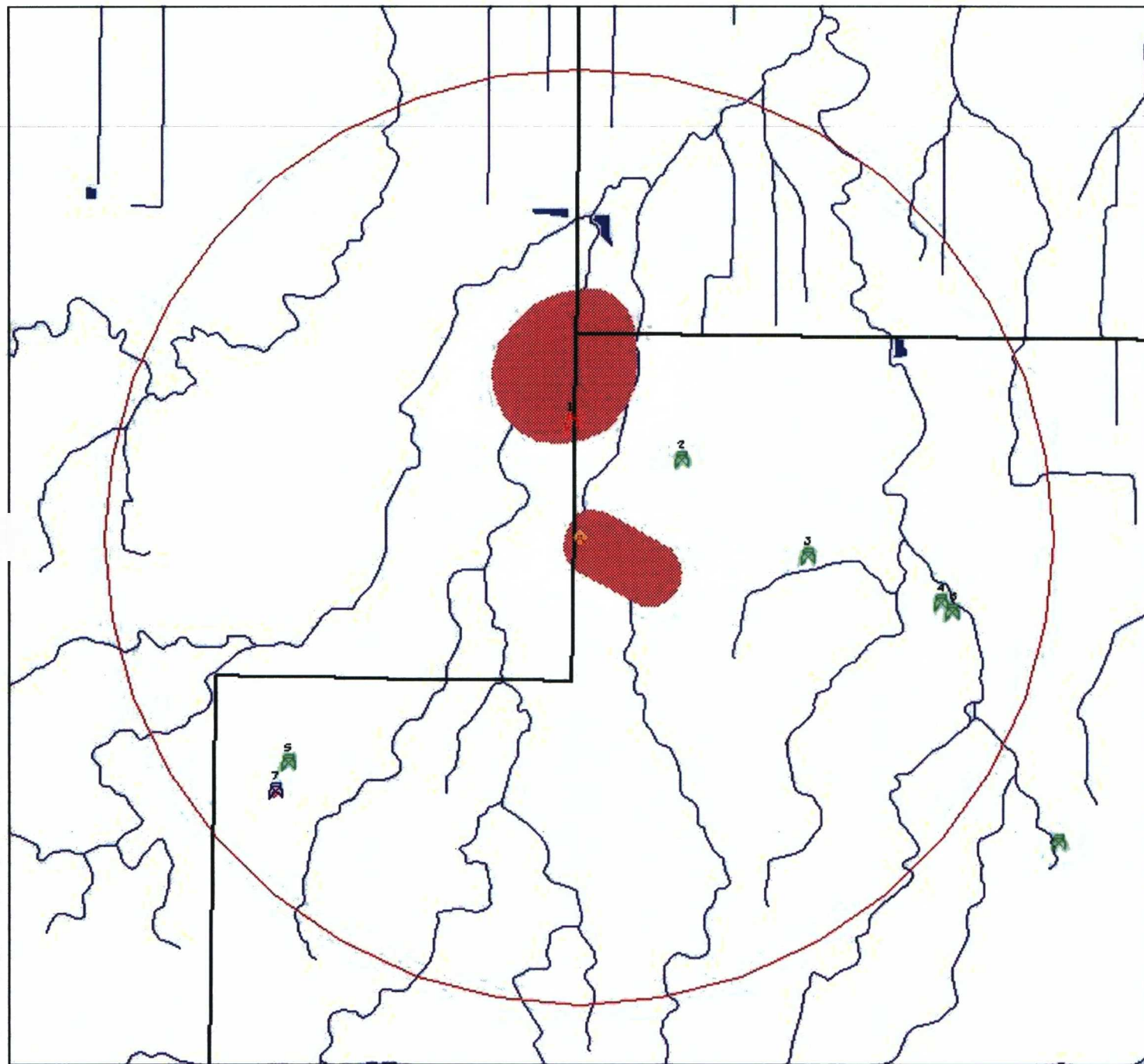


Division of Emergency & Remedial Response

GEOGRAPHIC INFORMATION SYSTEM 4-MILE RADIUS MAP

PUBLIC GROUND WATER SYSTEMS

Orbitron



Site

Public Ground Water Systems

Community

Non-Community/Transient

Non-Community/Non-Transient

Rivers & Streams

Wellhead Protection Area

Lakes & Ponds

Limit of Radius From Site

County Boundaries

1 0 1 Miles





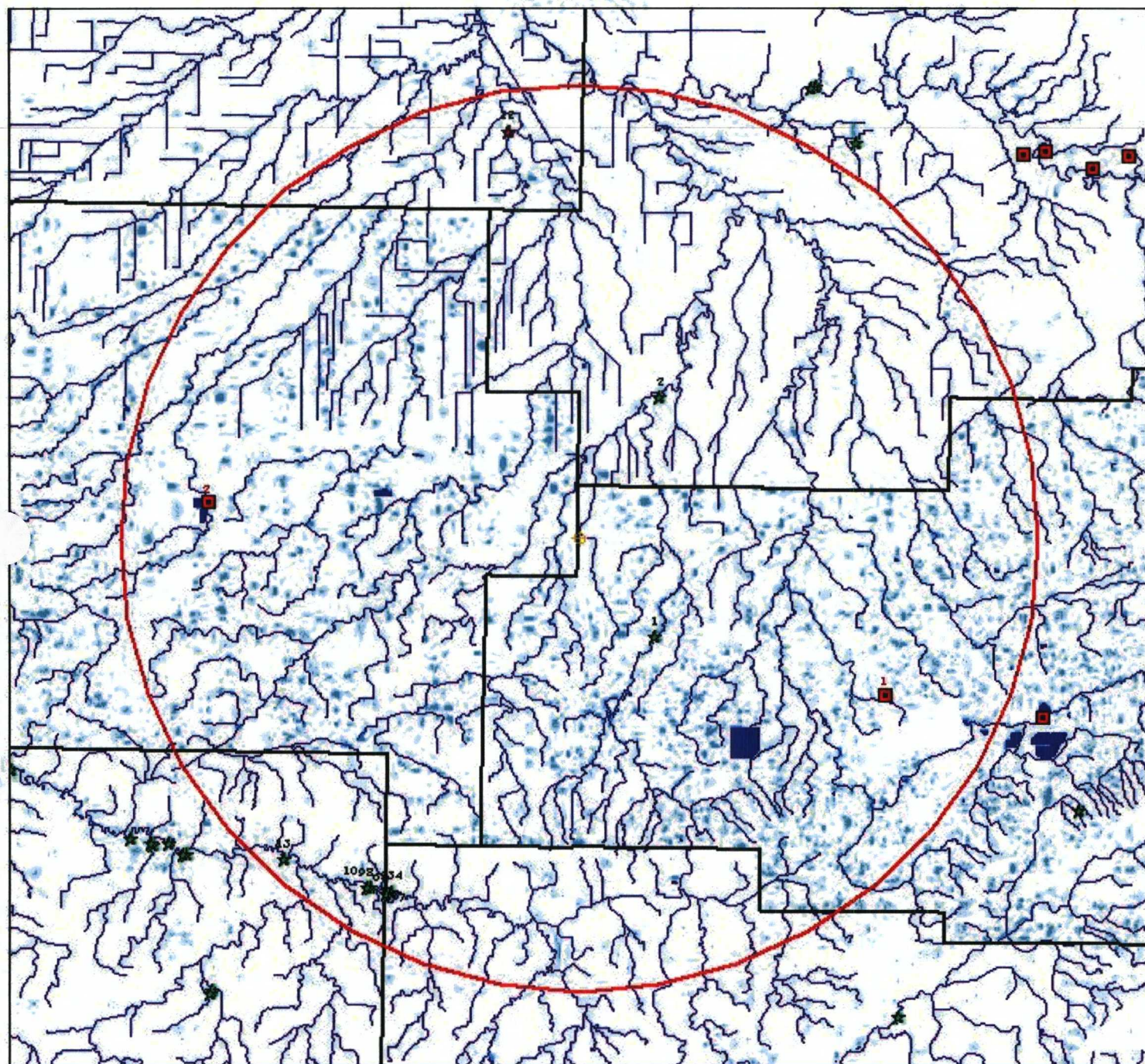


Division of Emergency & Remedial Response

GEOGRAPHIC INFORMATION SYSTEM 15-MILE RADIUS MAP

NATURAL HERITAGE DATA

Orbitron



Site

US Endangered/Threatened Species

Ohio Endangered/Threatened Species

Public Surface Water Systems

Community

Non-Community/Transient

Non-Community/Non-Transient

Rivers & Streams

Wetland Area

Lakes & Ponds

Limit of Radius From Site

County Boundaries

4

0

4

8 Miles



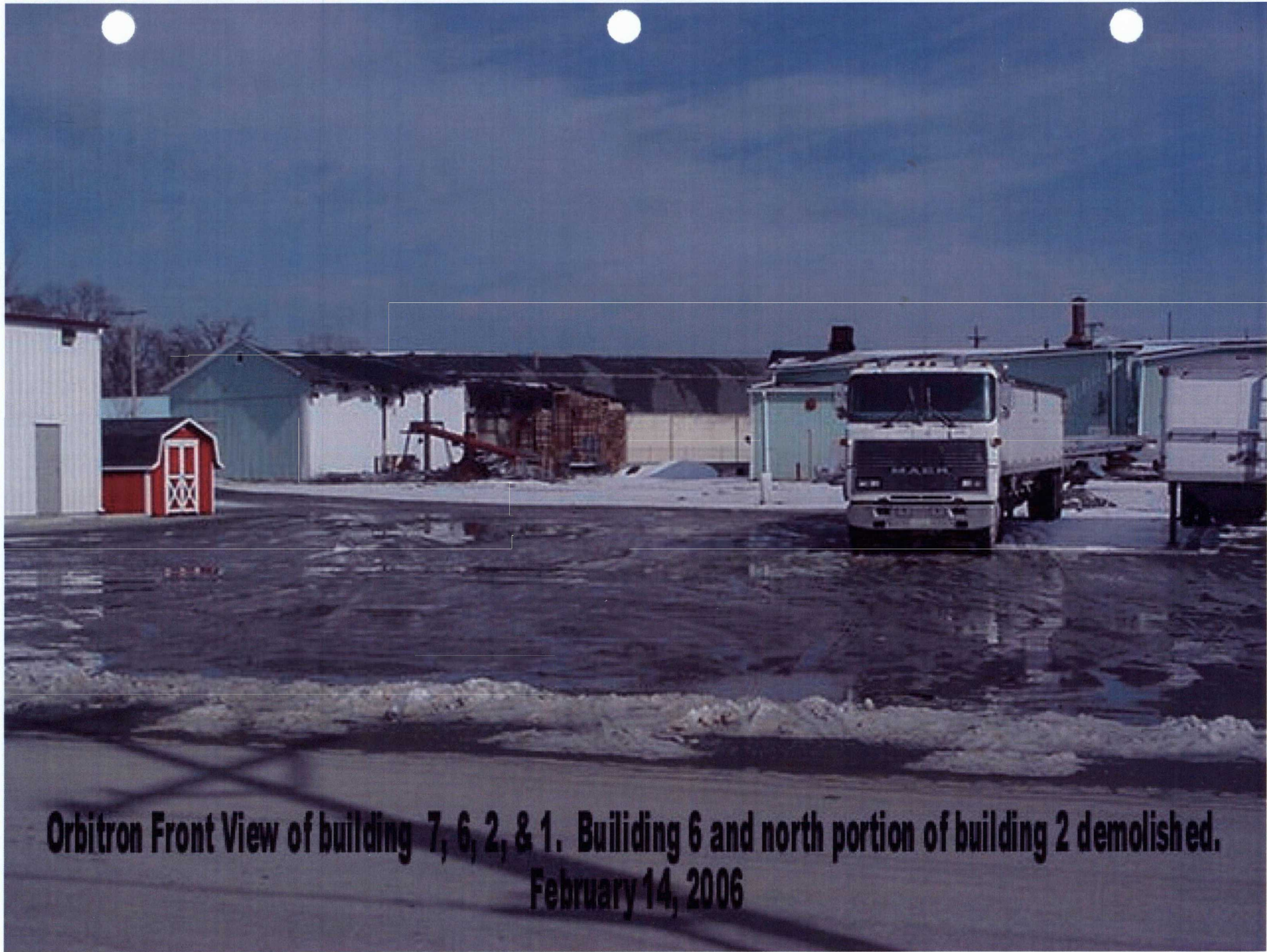


## APPENDIX A



***Orbitron Front View of building 1 & 2.  
February 14, 2006***





**Orbitron Front View of building 7, 6, 2, & 1. Building 6 and north portion of building 2 demolished.  
February 14, 2006**





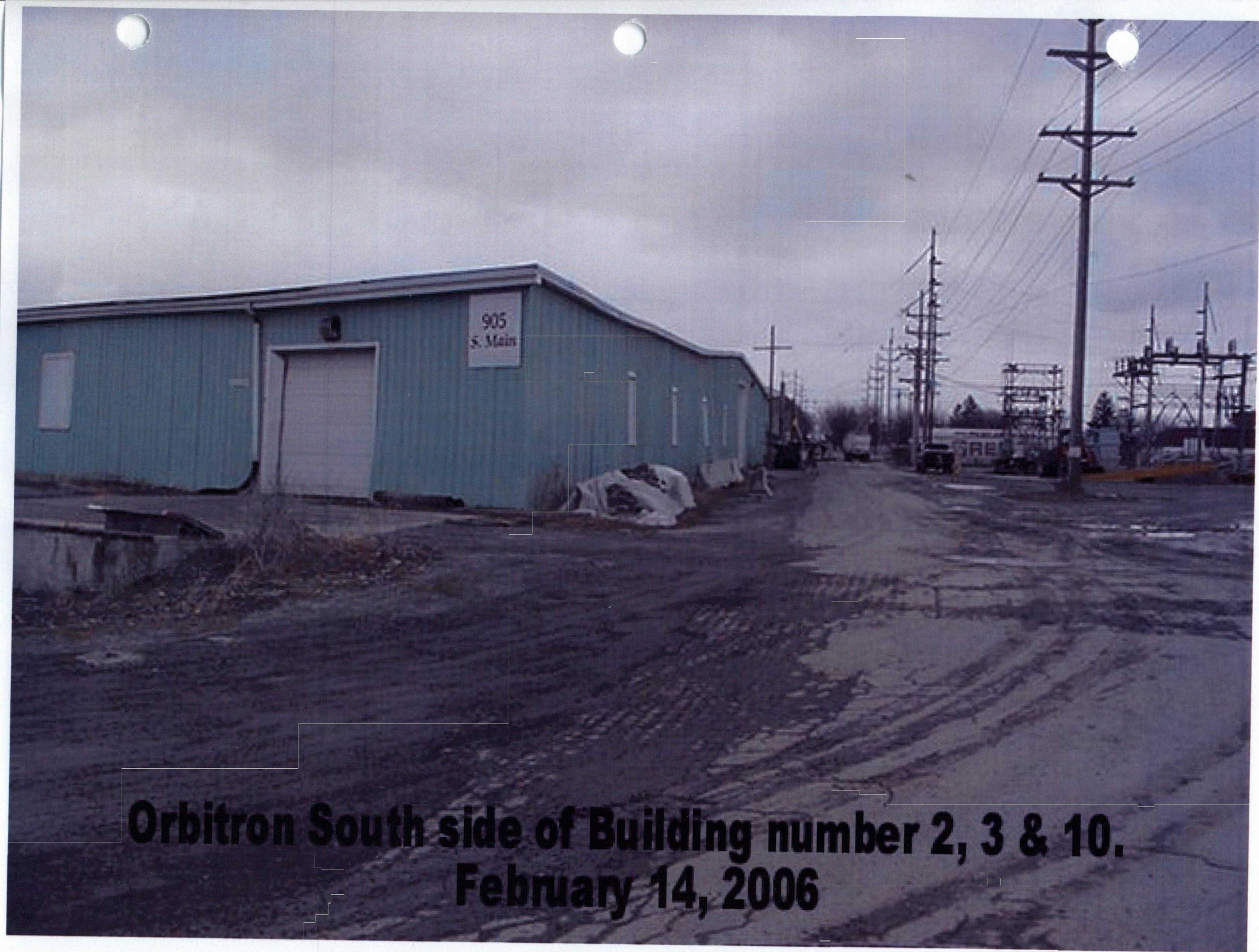
**Orbitron Front View of south portion of building 2.  
February 14, 2006**





**Orbitron Pole Building on south side of property.  
February 14, 2006**





**Orbitron South side of Building number 2, 3 & 10.  
February 14, 2006**